

\$~9

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of hearing and Order: February 13, 2015.

+ W.P.(C) 7883/2014
SUNITA RANI VERMA

..... Petitioner

Through: Mr. Amit Kumar, Advocate

versus

UNION OF INDIA & ORS

..... Respondent

Through: Mr. Vikas Mahajan, CGSC with
Mr.S.S. Rai, Advocate for res n1 and
2.

CORAM:

HON'BLE MR. JUSTICE KAILASH GAMBHIR

HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

%

KAILASH GAMBHIR, J. (ORAL)

1. By this petition filed under Article 226 of the Constitution of India, petitioner seeks to challenge the order dated 16.08.2012 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No. 2570/2012, whereby the Original Application preferred by the petitioner was dismissed by the learned Central Administrative Tribunal.

2. The grievance raised by the petitioner in the instant petition is that she has been wrongly denied participation in the selection process for appointment on the post of 'Vocational Instructor, Trade-Dress Making'

owing to her over age and ignoring the fact that she was entitled to the said post not only on the ground of relaxation as an OBC candidate but also as a divorcee.

3. Another grievance raised by the petitioner is that at the time of making application pursuant to Advertisement No.22/08, she was eligible for consideration and therefore based on her eligibility she ought to have been considered for selection for the vacancy arising out of the advertisement issued in the next year vide Advertisement No.03/2009. The petitioner sought direction from the respondent to declare her result of previous two selection processes and had also prayed for an interim order for restraining the respondent from holding the selection process on 14.4.2009 and also to not to fill up the post of Vocational Instructor in the Trade of Dress Making. The learned counsel for the petitioner submits that learned Tribunal has dismissed the said Original Application filed by the petitioner vide order dated 12.05.2009 and the petitioner had challenged the said decision before the Hon'ble Calcutta High Court in AST No.308/2009 and the Hon'ble Calcutta High Court while disposing the petition filed by the petitioner had observed that it will be open for the petitioner to revive her application in the event there is any fresh cause of action. The learned

counsel for the petitioner also submits that the respondents had subsequently published Advertisement No.08/2010 dated 24.4.2010 for one post of Vocational Instructor (Dress Making) reserved for OBC against which, again the petitioner had submitted her application well within time but again she was not called for interview and this is how the fresh cause of action arose to the petitioner to file O.A.No. 2570/2012 but the same was dismissed by the learned Tribunal in limini on 16.8.2012 without appreciating the merits of the case of the petitioner.

4. We have heard the submissions of the learned counsel for the petitioner and also gone through the record of this case.

5. In so far as the advertisement of the year 2010 is concerned, the petitioner was not called for interview on the ground of being over age. Counsel representing the petitioner has not disputed the fact that the necessary age relaxation to the petitioner as an OBC candidate and also being a divorcee was granted to by the respondent, however the petitioner was still found over age, having completed the age of 38 years on 30.6.2008 and the cut off date being 9th March 2009. The claim of the petitioner is that she should have been considered against the vacancy which had arisen in the year 2009 and a fresh cause of action has arisen in her favour, when the

respondent had advertised a fresh vacancy pursuant to the advertisement No. 08/2010.

6. During the course of arguments, the learned counsel for the petitioner did not dispute the fact that the petitioner was over age as she had completed 38 years of age as on 30.6.2008 and therefore, even after grant of age relaxation of 3 years as an OBC candidate and five years of being divorcee, she became over age as on the date of 9.3.2009.

7. Having not disputed the aforesaid fact of the petitioner being over age as on 9.3.2009, we find no tangible ground to interfere in the order passed by the learned Central Administrative Tribunal dismissing the Original Application, in limine, preferred by the petitioner without directing notice of the same to the respondent. Finding no merit in the petition filed by the petitioner, the same is hereby dismissed with no orders as to costs. Accordingly, the order passed dated 16.08.2012 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No. 2570/2012 is upheld.

KAILASH GAMBHIR, J

I.S. MEHTA, J

FEBRUARY 13, 2015

pkb

W.P. (C) No. 7883/2014

Page 4 of 4