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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 4360/2015**

UNION OF INDIA & ORS Petitioners

Through Mr. Ruchir Mishra, Adv.

versus

SURENDER KUMAR BHARTI & ANR Respondents

Through None

&

+ **W.P.(C) 4378/2015**

UNION OF INDIA & ORS Petitioners

Through Mr. Ruchir Mishra, Adv.

versus

SUNIL KUMAR Respondents

Through None

CORAM:

HON'BLE MR. JUSTICE KAILASH GAMBHIR

HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

% **01.05.2015**

CM No. 7897-98/2015 in WP(C) No.4360/2015

CM No. 7922-23/2015 in WP(C) No.4378/2015

Exemption granted subject to all just exceptions.

Applications stand disposed of.

CM No. 7899/2015 in WP(C) No.4360/2015

CM No. 7924/2015 in WP(C) No.4378/2015

By these applications the petitioner seeks permission to file

Signature Not Verified

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Certify that the digital and physical file have
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the physical file and no page is missing.

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lengthy synopsis and list of dates.

As prayed, the application is allowed.

WP(C) No.4360/2015 & CM 7896/2015 (stay)

WP(C) No.4378/2015 & CM 7921/2015 (stay)

Mr. Ruchir Mishra very fairly submits that against the same impugned order passed by the Central Administrative Tribunal, Principal Bench, New Delhi this Court has dismissed the petition filed by Union of India. The present petition is also against the same order and taking the same view that the present petition preferred by the Union of India is also being dismissed. The operative portion of the order already passed by this Court is reproduced hereunder:

“We have heard the learned counsel for the petitioners at considerable length and have given our conscious consideration to the arguments advanced by him.

In November, 2007, an advertisement was issued by the petitioners inviting applications for filling up 45 vacancies of Assistant Binder in the Directorate of Printing. The respondents herein had participated in the selection process but were not included in the panel of selected candidates. There were some other candidates, namely, Puneet and Nafe Singh who had undergone apprenticeship from 07.10.1997 to 06.10.1999 and 07.10.1998 to 06.10.2000 respectively, and participated in the selection process but remain unsuccessful. These two applicants had approached the learned Tribunal by way of OA NO.2318/2008, raising the plea that the candidates who had done apprenticeship much after they were selected in utter disregard to their preferential claim of having completed the apprenticeship much earlier in comparison to the successful candidates. The claim of these applicants before the learned Tribunal was that the post being ‘non-selection post’, the question of ‘comparative merit’ was not the criteria and that the criteria was that the ones who had completed apprenticeship earlier would be required to be treated as senior

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and hence would be entitled to be appointed. The learned Tribunal did not agree with the plea raised by these applicants and dismissed the OA preferred by them.

To challenge the order of the learned Tribunal, these applicants preferred a writ petition being W.P. (C) 26/2009 and vide order dated 20th July, 2010, accepting the plea of these applicants, this Court gave the following directions:

"28. We need not wait for any report in view of the legal position, as per our understanding above, which requires us to dispose of the instant petition setting aside the impugned order dated 20.11.2008 and disposing of the instant writ petition as also OA No.2318/2008 by passing the directions to the 3rd respondent to redraw a list of empanelled candidates, not on the basis of their merit position, but on the basis of their seniority reckoned from the dates they successfully obtained the apprenticeship certificates, subject to their suitability. We clarify that if on the basis of the trade test and the interview which was conducted, suitability can be culled out de hors the merit, same should be done and if not the candidates be resubjected to a trade test with the focus of the test being to determine suitability and not the relative merit.

29. We clarify that since appointments in the unreserved category and the ST category are not in question for the reason one petitioner applied for the sole post in the SC category and the other applied for a post in the OBC category, needful would be done only in respect of the SC and OBC candidates and not the candidates in the unreserved category and ST category.

30. Needful be done within a period of 4 months from today. Till the directions issued are complied with, existing empanelled candidates in the category of SC and OBS shall continue to work."

Pursuant to the said direction, the petitioners had redrawn the panel but since the redrawn panel was also based on the same criteria adopted by the petitioners, therefore, fresh challenge was laid by the respondents to the said panel and by impugned order dated 19.08.2014, the learned Tribunal gave fresh direction to the petitioners to cull out the suitability of the candidates on the basis of the trade test held in the selection process set in motion in November, 2007 with reference to seniority-cum-suitability of the candidates (apprentices). In our view the learned tribunal is right in

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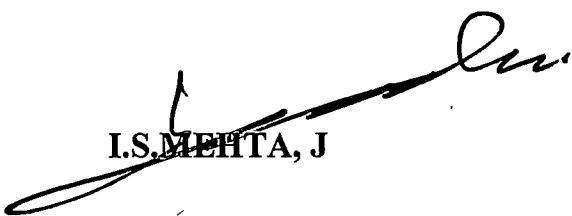
holding that since the petitioners have again based the entire selection process on qualifying marks and standard merit of the respondents, ignoring the direction given by the Hon'ble High Court vide order dated 20.07.2010, they shall cull out the suitability of the candidates on the basis of the trade test with reference to seniority-cum-suitability of the candidates (apprentices).

Since the decision of this Court dated 20.07.2010 was not challenged or assailed by the petitioners, therefore, the same has attained finality and now the petitioners have to carry out the direction given by the Hon'ble High Court in terms of the order dated 20.07.2010 and the directions given by the learned tribunal in the impugned order are mere reproduction of the directions given by this court in its earlier order dated 20.07.2010.

There is no merit in the present petition and the same is hereby dismissed. The petitioners are accordingly directed to carry out the implementation of the direction given by the learned Tribunal without causing any further delay in the matter."

Accordingly these petitions are also dismissed.


KAILASH GAMBHIR, J


I.S. MEHTA, J

MAY 01, 2015/aj