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

+ W.P.(C).9796 /2015

% *Judgment dated 16th November, 2015*

SUNEEL RASTOGI & ORS. Petitioners

Through : Mr.Aman Preet Singh Rahi, Advocate

versus

UNION OF INDIA & ANR Respondents

Through : Mr. Jagjit Singh, Standing Counsel with
Mr. Preet Singh, Advocate

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (ORAL)

1. The petitioners had approached the Central Administrative Tribunal(hereinafter referred to for short as 'the Tribunal') in the year 2009 at the first instance with the prayer that posts available be de-reserved as the three petitioners whose names were in mentioned in the merit list at Serial Nos. 54 to 56 could not be selected. The Tribunal disposed of the OA by issuing a direction to the respondents to decide the representation of the petitioners as to why the posts could not be de-reserved. The representation of the petitioners was decided against the petitioners, which led to filing of a second OA in the year 2010. On 07.10.2010, this OA was also dismissed as the Tribunal was satisfied with the stand taken by the respondents for not de-reserving the posts. A writ petition was filed assailing the aforesaid order, which was disposed of and the following order was passed:

“Learned counsel for the petitioner seeks leave of this Court to withdraw this petition with liberty to file an application for review.

Be it noted, learned counsel for the petitioner submitted that his contention would be covered by the decision in *K. Manorama v. Union of India & Ors.*; (2010) 10 SCC 323.

We do not intend to express any opinion on that score as there have been no arguments in that regard before the tribunal and there is no advertence thereto.

Thus, we are only inclined to grant liberty to the petitioner to file an application for review. However, we would request the tribunal to hear the application for review in open court so that learned counsel for the petitioner can put forth his stand in an apposite manner.

With the abovesaid liberty and observation the writ petition is permitted to be withdrawn.”

2. Based upon this order, a review petition was filed before the Tribunal which was also dismissed for the reason that the grounds sought to be urged were not raised in the OA. Against the order of review, the present writ petition has been filed.
3. Learned counsel for the petitioners submits that the order of 29.07.2011 made it abundantly clear that liberty had been granted by the Division Bench of the High Court to the petitioners to rely upon the case of *K. Manorama v. Union of India and Ors.*, (2010) 10 SCC 323 and also the Tribunal was requested to hear the review application in open court to enable the petitioners to put forth its stand in an apposite manner before the Tribunal. Counsel submits that the Tribunal did not appreciate the

observations of the Division Bench and rejected the review on the ground that the grounds sought to be urged were not taken in the OA.

4. After some hearing in the matter, to meet the ends of justice we grant another opportunity to the petitioners to approach the Tribunal by filing a review. We permit the petitioners to raise additional grounds before the Tribunal to enable the Tribunal to render a decision after issuance of notice to the respondents, who may file their response thereto. This order is without prejudice to the rights and contentions of both the parties. In case a review is filed within 30 days from today, the plea of limitation shall not be raised.
5. The writ petition stands disposed of in above terms.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

NOVEMBER 16, 2015

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