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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 9869/2015, CM APPL. No. 23868/2015

Date of Judgment : 27th November, 2015

VIKAS CHAUDHARY

..... Petitioner

Through : Mr. Anil Mittal, Ms. Komal Aggarwal
and Mr. Kuber Giri, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondents

Through : Mr. Devesh Singh, Additional Standing
Counsel for R-1, 2 and 3.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G. S. SISTANI, J. (ORAL)

1. With the consent of the parties, we have set down the matter for final hearing.
2. The challenge in this writ petition is to the order dated 11.09.2015 passed by the Central Administrative Tribunal (CAT). Pursuant to an advertisement published by respondent No. 2/Delhi Subordinate Services Selection Board (DSSSB) bearing No. 2/2012 in the magazine "Employment News" in May, 2012 pertaining to filling up various posts including that of 24 posts of Motor Vehicle Inspector in Transport Department being Post Code-21/12, the petitioner made an application to the office of DSSSB on 15.06.2012. In one of the column in the prescribed form, the petitioner was to provide information regarding his postal address. The petitioner at that stage was 33 years of age. Petitioner submitted his application form by hand on 15.06.2012. Since, the

petitioner belongs to Other Backward Classes, he applied under reserved category. As per the advertisement, the application form was to be filled up manually on paper based form and was to be submitted either in person or by post. It is the case of the petitioner that at that stage, online applications were not introduced. As per Section 'C' of the advertisement in Clause 11 (iii) under the head "General Instruction for Candidates", it was stated that admit card of the candidates would be dispatched to them by post. Based on this Clause 11 (iii), the petitioner kept on waiting for the admit card or any other information which had to be provided by DSSSB by post. In August, 2014, the DSSSB published a list of candidates, who had applied for the post of Motor Vehicle Inspector on its website. The petitioner did not receive the result by post. The petitioner learnt that his name figured against the ID No. 2291150. The petitioner also learnt that on 16.09.2014, after a gap of two years, the DSSSB introduced the OARS (Online Application Registration Scheme) and uploaded a notice on the newly created website informing those candidates, who have already applied in the paper based form to fill up the form again and upload the same in OARS. It was also stated on the website that in case any candidate failed to do so, his candidature would stand cancelled. No individual information was sent to the petitioner as per Clause 11 (iii) of the advertisement. It is the case of the respondents that various notices have also been published on 07.10.2014, 13.10.2014 and 21.10.2014 in National Dailies i.e. Hindustan Times and Indian Express informing the candidates who had already applied on paper based application form to fill up the

same in OARS latest by 03.11.2014. The petitioner claims to have missed the public notice and he did not reapply on OARS, resultantly, the name of the petitioner do not figure in the final list. Accordingly, the petitioner approached the Central Administrative Tribunal on 17.12.2014. He was provisionally permitted to appear in the examination. The petitioner claims to have cleared the written examination but for the lapse on his part in reloading his form as per the OARS he claims to be eligible in all respect.

3. Mr. Mittal, learned counsel for the petitioner submits that one seat is also lying vacant and in case, he is not granted employment not only he would suffer; no benefit would be gained by the department as well. Mr. Mittal, learned counsel for the petitioner also contends that the Tribunal has failed to appreciate that the petitioner had furnished all his particulars along with requisite fee in paper based application form which was available in the records of DSSSB, moreover, the name of the petitioner appeared in the list of candidates, who had applied for the post of Motor Vehicle Inspector and in case the DSSSB had introduced OARS and wanted that eligible candidates should apply and furnish their particulars again online then it was duty bound to intimate the candidates individually rather than by issuing a public notice in the newspaper. Mr. Mittal also contends that DSSSB sought information from the candidates online in September, 2014 which has already been furnished by the candidates in the year 2012 and since it was a mere formality thus non supply of the information on OARS should not have resulted in cancellation of the candidature of the eligible candidates. Counsel has strongly urged before this

court that as per Section 'C' of the advertisement in clause 11 (ii) under the head "General Instructions for Candidates", it was clearly mentioned that the Admit Cards of the candidates would be dispatched to them by post and as such the petitioner was expecting his admit card or any other information from the DSSSB by post, thus it was incumbent upon DSSSB to inform the listed candidates individually that non submission of particulars subsequently online would result in cancellation of their candidature and sending information through public notice is invariably adopted/resorted to when it is for the benefit of the people unknown. Mr. Mittal also contends that the Tribunal has erroneously observed that if the petitioner was capable of spotting the advertisement in the year 2012 then he was also capable of spotting the notice in September, 2014. Mr. Mittal has explained that a person in search of a job scrutinises the advertisement in Employment related magazines with a hawk eye but once he is registered as a candidate with an organization, then he does not expect to hear from the organization through public notice and it was too farfetched to expect from the candidates that they would look for a notice public advertisement in the newspaper regarding filling up of information of OARS when exams were to be fixed by the DSSSB more than two years after having applied for the post.

4. Mr. Singh, learned counsel for the respondent has opposed the present writ petition and submits that a public notice was given in English dailies and the petitioner should have looked at the newspaper and reloaded the application form as per the OARS. He also relies upon the reasoning of learned Tribunal in support of his

submission.

5. We have heard counsel for both the parties and their rival contentions.
6. It is not in dispute that an advertisement notice was published in the year 2012 and petitioner made an application. It is also not in dispute that the petitioner has cleared all the examination and has been found eligible. The case of the petitioner has only been rejected by the respondent as he did not fill up the form as per public notice which was issued two years after the first advertisement to fill up the form in OARS.
7. We are satisfied with the reasoning and explanation rendered that the petitioner has acted in a bonafide manner and he was mislead firstly for the reason that he applied pursuant to an advertisement released in the year 2012 and secondly because of Clause 11 (iii) of the advertisement as per which, the admit card was to be dispatched to the candidates by post. Once the candidate has filled up the application form, he could not reasonably have expected that terms of the advertisement would be changed without issuing a specific notice to him.
8. We find that in the absence of a specific notice having been issued to the petitioner for reloading the application in OARS, he cannot be deprived of the benefit which had accrued to him. Consequently, we set aside and quash the order of the Tribunal dated 11.09.2015 and declare that DSSSB has wrongly denied the consideration of the petitioner candidature for the post of Motor Vehicle Inspector. The case of the petitioner for appointment shall be considered in accordance with law, within 4 weeks of receipt of

this order, if all other eligible criteria have been met.

9. Present writ petition and all pending applications are disposed of.
No costs.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

NOVEMBER 27, 2015

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