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

+ **W.P.(C).11426/2015**

% **Judgment Dated 9th December, 2015**

STAFF SELECTION COMMISSION & ORS. Petitioners

Through : Mr. S.M. Arif, Advocate

versus

SHRI ASIF ALI ZAVED

..... Respondent

Through : Mr. S.K. Gupta, Advocate

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (ORAL)

CM APPL 30134 /2015

1. Exemption allowed subject to all just exceptions.
2. Application stands disposed of.

W.P.(C).11426/2015

3. The petitioners are aggrieved by the order dated 01.05.2015 passed by the Central Administrative Tribunal(hereinafter referred to for short as 'the Tribunal') by which the OA filed by the respondent has been allowed.
4. The respondent pursuant to an Employment Notice dated 05.04.2008 applied for the Combined Graduate Level Examination, 2008. He participated in the Tier-I examination as an OBC candidate. The respondent was declined appointment on the ground that the OBC Certificate dated 22.04.1997 enclosed by him with the application form was more than three years old and another Certificate dated 27.10.2008 was issued after closing date of submission of application form.
5. Learned counsel for the petitioners submits that the Tribunal has failed to take into account the terms of para IV(a) of the Schedule to OM dated 08.09.1993, as per which only such persons who do not possess annual income of Rs.1.0 lakh or above or the wealth above the exemption limit as

prescribed in the Wealth Tax Act for a period of three consecutive years would be eligible for the benefits of age relaxation/reservation in the OBC category. Further, the Certificate which was required to be submitted should have been issued within three years preceding the closing date for submission of the application. The learned counsel contends that since the Certificate of the respondent was more than three years old and the subsequent Certificate obtained by him was issued after the cut off date *i.e.* 27.10.2008, he could not have been given benefit of reservation.

6. We find that the Tribunal has considered this submission made by the petitioners and rightly rejected the same for the reason that the contents of the OM sought to be relied upon by the petitioners was not part of the advertisement and in the absence thereof, the respondent cannot be made to suffer, more particularly when he was eligible which is evident from the fact that after learning about the objection raised by the petitioners, he procured fresh Certificate dated 27.10.2008. We find no ground to interfere. There is no illegality or infirmity, which requires interference in proceeding under Article 226 of the Constitution of India.
7. The writ petition is accordingly dismissed. No costs.

CM.APPL 30133/2015(stay)

8. Application stands dismissed in view of the order passed in the writ petition.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

DECEMBER 09 , 2015

pst