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

+ W.P.(C).10976/2015

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Judgment dated 27th November, 2015

SHANTI KUMARI

..... Petitioner

Through : Ms. Vishi Sharma, Advocate

versus

GOVT. OF NCT OF DELHI & ANR

..... Respondents

Through : Ms. Harvinder Oberoi for Mr. Devesh
Singh, Additional Standing Counsel for
the respondents.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (ORAL)

1. Challenge in this writ petition is to the order dated 06.10.2015 passed by the Central Administrative Tribunal(hereinafter referred to for short as 'the Tribunal') by which an OA filed by the petitioner stands dismissed.
2. An advertisement was published by the respondents in November, 2009 in the Employment News inviting applications for various posts as mentioned in the advertisement no.004/2009. Another advertisement was published in December, 2009 and thereafter in February-March, 2010, a notification was issued regarding the examination schedule for different posts including Post Code 70/09 and 71/09. The examination was scheduled for 23.05.2010. Earlier advertisement which was published was amended in September, 2011. The amendment related to educational qualifications. Further applications were invited from the prospective candidates who were qualified as on 15.01.2010. It was made clear that candidates who had already submitted their applications forms in response to the advertisement no.004/2009 were not required to apply again except to

deposit an additional fee of Rs.50/-. No obligation was cast upon them. The candidates who wished to apply based on the subsequent amendment were to submit their documents between 16.09.2011 and 17.09.2011. In the months of March-April, 2014, a notification was issued with respect to the dates of examination. Examination were to be held on 29.12.2013, but were postponed to 02.02.2014. The petitioner appeared in the examination conducted by the respondents and secured 74.5 marks in the examination. The petitioner was not successful in the General Category in which she had applied. It is at that stage, the petitioner procured an OBC Certificate and submitted an application dated 04.04.2011 and requested the respondent to treat her candidature as an OBC candidate. The representation of the petitioner was not accepted which led to the filing of the OA which stands dismissed.

3. Learned counsel for the petitioner has strongly urged before this Court that in view of the subsequent amendment since the candidates were entitled to apply afresh, the petitioner should have been given similar advantage and in case the petitioner would have applied afresh, the subsequent OBC Certificate procured by her was bound to be considered. She further submits that the Certificate is a genuine document and there should be no reason why the respondents should not consider the same and grant her the post. It is also urged before this Court that in the case of *Minor V. Harshan v. The Chairman, JEE-2012 and Another*, [W.P.(MD) No.7078 of 2012] decided on 20.07.2012, the Madras High Court had permitted the candidate to submit the OBC Certificate at a later stage and thus similar relief should be granted in favour of the petitioner.
4. Learned counsel for the respondents who enters appearance on advance copy submits that the amendments made it abundantly clear that the cut off date for the eligibility remained unchanged which is 15.01.2010 and even

those candidates who applied pursuant to the amendment were to be considered based on the eligibility date *i.e.* 15.01.2010. It is further submitted that the petitioner had applied as a General Candidate and on the date of submission of the application, she did not have the OBC Certificate which admittedly has been procured on a date much later than the cut off date and the last date of filing up the application forms. It is further contended that the petitioner can gain no advantage as the amendment was carried out in view of the orders passed by the Tribunal in the OA which has been filed before them.

5. We have heard the learned counsel for the parties, examined the judgment of the Tribunal and also the advertisement which was published by the respondents. The relevant part of the advertisement reads as under:

“Besides above, the prospective eligible candidates, who fulfill the eligibility conditions as on 15-01-2010, can also apply against advt. no.004/2009 for the said posts on the prescribed form as given in section-D of the said advt. which can be downloaded from the Board’s website www.dsssb.delhigovt.nic.in. The application form must be accompanied with a fee of Rs.100/- as per the mode of payment detailed above. Applicants belonging to SC/ST/PH category will be exempted for payment of the requisite fee subject to submission of duly attested copies of relevant certificates in support of their claim. The prospective candidates must read the detailed instructions along with terms and conditions mentioned in advt. no.004/2009 before applying for the above posts. The candidates who have already submitted their application form in response to advt. no.004/2009 are not required to apply again except for depositing the additional fee of Rs.50/- as mentioned above.”

(Emphasis added)

6. In this case, admittedly pursuant to an advertisement in November, 2009 in the Employment News, the petitioner had applied for the Post Code 70/09 and 71/09 as a General candidate. Subsequently, the earlier advertisement published in November, 2009 was amended in September, 2011, but the eligibility conditions remained unchanged *i.e.* the candidates had to fulfill

the eligibility conditions as on 15.01.2010. It is not in dispute that not only the petitioner applied in the General category but the petitioner also did not have a OBC Certificate which she procured on 04.04.2011.

7. Since it is not in dispute that the eligibility date in the amendment was 15.01.2010 and the fact that the petitioner was able to procure the OBC Certificate on 04.04.2011, we find no infirmity in the view taken by the Tribunal. We have also examined the judgment in the case of *Minor V. Harshan*(supra). A reading of this judgment would show that in that matter the last date fixed was 10.06.2012 by 5:00 P.M. by which date the undertakings or certificates were to be filed and the petitioner in the said case sent the declaration and submitted the OBC Certificate on 01.06.2012 which was within the cut off date and thus, the aforesaid case would not apply to the facts of the present case. We find no grounds to interfere in the judgment of the Tribunal.
8. The writ petition is without any merits; the same is accordingly dismissed. No costs.

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

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

NOVEMBER 27, 2015

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