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

+ W.P.(C) 4118/2013 & CM No.9684/2013

DELHI SUBORDINATE SERVICES SELECTION BOARD & ORS.

..... Petitioners

Through : Mr. Satyakam, ASC for GNCTD.

versus

KAILASH CHAND YADAV

..... Respondent

Through : Nemo.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

% **14.07.2016**

1. Challenge in this writ petition is to the order passed by Central Administrative Tribunal dated 30th November, 2012 by which OA filed by the respondent was allowed. It may be noticed that pursuant to an advertisement No. 004/2009 published in the month of December, 2009 for the post of staff nurse, the respondent made an application. The respondent claimed that he belonged to 'Other Backward Class' (OBC) and further claimed that his caste was recognized by the Government of NCT of Delhi. Since the OBC certificate was not furnished within the time permitted, his candidature was rejected. The Central Administrative Tribunal, however, allowed the application and directed the respondents (petitioners herein) to select the applicant/respondent for the post of staff nurse in OBC category.

2. Learned counsel for the petitioners has pointed out that while

issuing notice in the matter, operation of the impugned order was stayed.

3. Despite service none has appeared on behalf of the respondent. On 27th August, 2013, notice sent to the respondent was returned unserved with the endorsement that 'no such person resides at the given address'.

4. It was brought to the notice of the court that the notice was sent to the respondent on the address mentioned in the original application filed by the respondent before the Tribunal. By an order dated 8th November, 2013, this court directed that the respondent be served by affixation on the last known address of the respondent.

5. Subsequently, it was noticed by order dated 24th January, 2014 that the service of notice was accepted by the Aunt of the respondent. Since the respondent did not appear, the court directed notice to Mr. Manoj Ohri, Advocate, who had represented the respondent before the Tribunal by order dated 17th April, 2014. None appeared again on 12th January, 2015. Fresh notice was issued to the respondent by the registered AD post, speed post, courier and ordinary process. However, despite service, the respondent did not appear. The respondent has failed to appear even thereafter on at least five dates of hearing.

6. Learned counsel for the petitioner submits that no useful purpose would be achieved in deciding this matter on merit as it seems that respondent has abandoned his claim and the writ petition would thus have become infructuous.

7. We leave the question of law open and dispose of the matter

with liberty to the petitioner to seek recall of this order should the respondent press his claim.

8. The writ petition and CM No.9684/2013 are disposed of in the above terms.

Dasti.

G.S.SISTANI, J

I.S.MEHTA, J

JULY 14, 2016

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