

\$~29

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

+ W.P.(C) 2581/2016, CM APPL. 10965 to 10967/2016

UNION OF INDIA

..... Petitioner

Through: Mr. Sanjay Jain, ASG with Mr.
Anurag Ahluwalia, CGSC and Ms.
Nidhi Parashar, G.P., Ms. Rhea
Verma, Pallavi Shalli, Advs.

Versus

SUCHITRA GOSWAMI

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

%

22.03.2016

Order/judgment of the Tribunal dated 06.05.2014 in O.A. No. 3193/2012 was made subject matter of challenge in W.P.(C) No. 6907/2014 titled as '*Union of India vs. Suchitra Goswami*'. The said writ petition was dismissed vide detailed judgment dated 10.10.2014. The penultimate paragraph of the said decision is as under:

10. Having perused the impugned order and considered the overall facts and circumstances, as also the submission of learned counsel for the petitioner in the light of the Central Staffing Scheme, we are not inclined to interfere with the impugned order as we do not find any illegality or infirmity in the conclusions drawn by the Tribunal. The Tribunal, in our view, was right in concluding that the petitioner had not demonstrated any reason to

presume that the respondent would not have been picked up by any of the departments upon being placed in the Directors' suitability list. There was no blemish in the respondent's service record since she had either outstanding or very good gradings in respect of the years for which her ACRs were graded prior to 1994. Moreover, she was well versed with two foreign languages, namely, French and Chinese and had attained qualifications including M.Phil and MBA. Though, theoretically it may have been argued that there was no right in the candidates placed on the Directors select list for being placed as Director, that was not enough to deny relief to the respondent. It was for the petitioner to produce material before the Tribunal to dislodge the presumption in favour of the respondent that she would not have been picked up by any of the departments, despite her credentials upon being placed in the Directors' suitability list. The petitioner did not produce any such material. In our view, the respondent was treated rather shoddily by denying what was due to her which resulted in her being selected as Joint Secretary on 15.07.2012 i.e. just 15 days from the date of her superannuation."

Thereafter, it was recorded that the High Court was not inclined to interfere with the impugned order passed by the Tribunal and the writ petition was dismissed.

We fail and cannot understand how the Union of India could have filed a review application in 2015 before the Tribunal, after the decision of the High Court dated 10.10.2014. Once the matter had been decided on merit by the High Court then in terms of Order 47 of the Code of Civil Procedure, 1908, a review application was not maintainable before the Tribunal.

The challenge made in the present writ petition is to this review order dated 23.09.2015. We notice that the review application itself was dismissed.

It is apparent that the petitioner – Union of India is aggrieved by orders passed and directions given in the contempt petition, CP No.418 of 2014. The said orders have not been made subject matter of challenge before us in this writ petition.

We also clarify that in case the petitioner is hurt by any observation in the order dismissing the review application and these observations are being relied upon in the contempt proceedings, it will be open to the petitioner to challenge the same in the writ petition, etc. against the contempt proceedings.

With the aforesaid observations, we dismiss the present writ petition. In case the petitioner is aggrieved by any order or direction passed in contempt petition, the petitioner is at liberty to take appropriate steps in accordance with law.

Dasti, under signature of the Court Master.

SANJIV KHANNA, J.

NAJMI WAZIRI, J.

MARCH 22, 2016/acm