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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **WRIT PETITION(CIVIL) No. 7882/2015**

Date of decision: 8th February, 2016

UNION OF INDIA AND ANR. Petitioners

Through Mr. R.V. Sinha & Mr. A.S. Singh,
Advocates.

versus

SUNEEL KUMAR Respondent

Through Mr. A.K. Trivedi, Advocate.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAJMI WAZIRI

SANJIV KHANNA, J. (ORAL):

Learned counsel appearing for the Union of India [General Manager Northern Railway and Assistant Personnel Officer (Recruitment)] assailing the order dated 1st October, 2014 passed by the Central Administrative Tribunal, Principal Bench (Tribunal, for short) submits that the application form submitted by the respondent Suneel Kumar for appointment to the post of Khalasi/Helper or equivalent post was invalid. Learned counsel for the petitioners has relied upon *Ekta Shakti Foundation versus Government of NCT of Delhi*, AIR 2006 SC 2609 in support of his contention, and has urged that this is a case of erroneous and wrong exercise of the power of judicial review.

2. The impugned order records that the respondent-Suneel Kumar, the petitioner before the tribunal, had applied for appointment to the post of Khalasi/Helper pursuant to an advertisement published in "Employment

News, 1-7 January, 2011”. The application form submitted by the respondent was examined and admit card, with Roll No. 0139101 was issued. The respondent had appeared in the written test and having qualified, was called for the physical efficiency test. Subsequently, in the last week of January, 2013, the respondent came to know that other similarly placed candidates had been issued appointment letters and had even joined duty, while the respondent had not received the offer of appointment. He approached the Assistant Personnel Officer (Recruitment) and learnt that his candidature had been rejected on the ground that his candidature was declared invalid as the application form submitted by him had the words “South Central Railway” written thereon, instead of “Northern Railway”.

3. In the impugned judgment and final order the tribunal records that both “Northern Railways” and “South Central Railways” had the same format application forms. The application form of the respondent, was verified and checked and thereafter the Railway Recruitment Cell, Northern Railway, New Delhi had issued the admit card for the written examination. The mistake, it was observed, was not a good reason to invalidate the selection, after the respondent had duly participated in the selection process and qualified.

4. We have examined the application form, which was also published in the advertisement. The application form has various columns that were

to be filled up and declarations signed by the candidate. The first column in the form mentions Recruitment Cell/Northern Railway Employment Notice No. 220/E/Open Mkt/RRC/2010, i.e., the zone of the Railways, Railway Recruitment Cell No.,etc. The filled up form, complete in all respects was sent by post to the Railway Recruitment Cell, Northern Railway. The respondent had paid the prescribed fee by way of demand draft/postal order. It is obvious that the demand draft/postal order, was in the name of Northern Railway and the instrument was duly encashed. It appears that the respondent while filling up the form did not notice the words “South Central Railway” printed on the said form, instead of “Northern Railway”. Probably the respondent had concentrated on filling up several columns, which had to be handwritten. In the given fact situation, we do not think that this lapse by any stretch would result in an invalid form. The form was certainly posted to DRM Office, Northern Railway, AIRF, 4, State Entry Road, New Delhi and was received on or before the due date. The respondent was also issued the admit card and had to participate in the written examination. Once the respondent had qualified, he had appeared for the physical efficiency test. Just as the respondent had failed to notice the words “South Central Railway” written on the form, the petitioners and their officers had also not noticed the said mistake. Relevant particulars, including the postal order/demand draft number including the advertisement number, etc. were correct.

5. Separate selections are conducted by each zonal railway, who have independent and separate recruitment offices. The form in question was sent to the Recruitment Cell of Northern Railways. It is obvious that the respondent had applied for selection to the Northern Railway. He had given details and particulars of the advertisement published by the Northern Railways.

6. The contention of the petitioners that power of judicial review is limited and confined to *Wednesbury Principles* is correct. However, in the facts of the present case, the petitioner's stand to treat the form as invalid, is wholly arbitrary, completely unreasonable and does not meet the mandate of law. Such action can be certainly interfered with by the Tribunal and the Courts to do justice and correct the error in the decision making process, which did not differentiate between the nature of the lapse and whether it should affect the selection process resulting in invalidation.

7. In view of the aforesaid position, we do not find any merit in the present writ petition and the same is dismissed. The petitioners will process the case of the respondent in accordance with law. Requisite letter will be issued to the respondent within a period of three weeks from the date a copy of this order is received.

SANJIV KHANNA, J.

NAJMI WAZIRI, J.

FEBRUARY 08, 2016
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