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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Judgment Dated: 28th July, 2016**

+ W.P.(C) 9953/2015
CHANDRA KUMARI

..... Petitioner

Through: Mr.Sudershan Rajan and Mr.Rajeev
Khurana, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

Through: Mr.Anuj Aggarwal, ASC, GNCTD with
Mr.Shubhanshu Gupta, Advocate.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE I.S.MEHTA

G.S.SISTANI, J (ORAL)

1. Challenge in this writ petition is to the order passed by the Central Administrative Tribunal dated 7th September, 2015 by which O.A. filed by the petitioner stands dismissed.

2. In this case, an advertisement was published in the Employment News of 11-17th May, 2013 by the Delhi Police inviting applications for direct recruitment to the posts of Assistant Sub Inspector (Radio Technician). It is the case of the petitioner that the petitioner applied as a departmental candidate as per Rule 7 of the Delhi Police (Appointment and Recruitment) Rules, 1980, as per which 50% of the vacancies were to be filled up by promotion. Out of 50% of direct quota, 10% of the posts were to be filled up through departmental candidates, i.e. Constables, Head Constables and Assistant Sub Inspectors of not more than 30 years of age having requisite qualifications through the examination.

3. The petitioner claims to have applied for the said post. Reliance is placed on the copy of the admit card which has been placed on record, which shows that he applied as a departmental candidate. The case of the petitioner is that

despite qualifying the written test and the trade test, he was not issued the appointment letter for the said post. What is sought to be urged before us today by learned counsel for the respondents is that Rule 7 would not be applicable to the facts of the present case and the posts were to be filled up 50% by direct recruitment and 50% by promotion. He further clarifies that according to the stand of the respondents the departmental candidates could appear under direct recruitment as there was no bar for the same.

4. Learned counsel for the petitioner submits that there were 41 vacancies in total and barring 10%, i.e. quota for departmental candidates, all vacancies were filled. Thus, the stand of the respondents is not borne out from the record.

5. Counsel for both parties are in agreement that all these issues were not decided by the Tribunal. Learned counsel for the respondents explains that the stand of the department could not be placed before the Tribunal as the counter affidavit was not filed and the matter was decided at the admission stage itself.

6. As agreed, the impugned order dated 7th September, 2015 passed by the Tribunal is set aside and the matter is remanded back to the Tribunal for fresh hearing. The matter will be listed before the Tribunal on 11th August, 2016. The Tribunal will grant an opportunity to the respondents to file their counter affidavit/reply and after hearing both the parties shall decide the matter in accordance with law. It is clarified that we have not expressed any expression of opinion on the merits of this case.

7. The writ petition stands disposed of in the above terms.

G.S.SISTANI
(JUDGE)

I.S. MEHTA
(JUDGE)

JULY 28, 2016/ 'dc'