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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 11141/2015 & CM No.28927/2015**
JASWANT AND ORS Petitioners
Through: Mr. Manoj Gorkela, Advocate

versus

MINISTRY OF URBAN DEVELOPMENT AND ORS.. Respondents
Through: Mr. Arun Bhardwaj, CGSC with Ms.
Gunjan Bansal & Mr. Ranjan Swain,
Advocates

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER
% **19.01.2016**

The petitioners herein, 17 in number along with one Babloo, had filed the original OA No.2270/2015 which stands dismissed vide impugned order dated 8th October, 2015.

The petitioners had applied for selection and appointment to the post of Operator (E&N) in offices located in Northern Region of the Central Public Works Department in the Special Recruitment Drive for Scheduled Castes and Scheduled Tribes-2007 published in the Employment News 06/12 February, 2010 for filling-up 145 vacancies.

To cut short the controversy and confining ourselves to basic facts, we would record that the petitioners were permitted to sit in the trade test on the basis of the documents/particulars furnished by them and accepting that they meet the minimum eligibility qualification and experience as stipulated in

the Recruitment Rules ('RRs' for short). It is the case of the petitioners that they had cleared the said trade test in 2011 and their educational qualification, technical qualification, workman license and practice license had been verified by the Trade Test Committee, 2011. However, it is accepted that no appointment letters were issued and no offer of appointment was made. The Appointment Board, before issuing the appointment letters, had verified and examined the eligibility certificates submitted by the petitioners relating to technical qualification, workman's license and practice experience, as stipulated in the RRs and thereafter had opined that the petitioners were not eligible as they did not meet the minimum prescribed eligibility criteria. The petitioners were accordingly not appointed.

The Tribunal, in the impugned order, has specifically observed that there were no impediment or restriction on the departmental authorities in re-verifying the eligibility of the applicants and the re-examination exercise undertaken by the Appointment Committee cannot be faulted or held to be arbitrary and illegal. We agree with the Tribunal on the said aspect. The real issue was whether or not the petitioners satisfy the prescribed minimum technical qualification, were possessed of the workman's license and practical experience as on the cut-off date. It is on this aspect that the respondents were lacking and were declared as unqualified. It is obvious that an ineligible applicant could not have been appointed. The petitioners were therefore required to and should have filed documents to satisfy and show that they met the technical qualification, were possessed of a workman license and had requisite practical experience. The Tribunal, in the impugned order, records that the petitioners had not enclosed and had not

filed documents and hence, the petitioners had not discharged the burden to establish their plea, challenging the finding of the Appointment Board on this aspect.

The learned counsel for the petitioners submits that there may have been a lapse as the petitioners did not fully appreciate and understand the legal position. They had gone by the legal advice and for they were given to understand that re-examination of the certificates and the papers by the Appointment Board was contrary to law. He submits that pursuant to the orders of this Court, some documents/certificates have been filed and are on record. He submits that the petitioners may be allowed and permitted to approach the Tribunal along with the relevant documents. It is highlighted that the OA in question was filed on or about 25th June 2015 and the final judgment and order, disposing off the said OA, was passed on 8th October, 2015. If the petitioners had any indication and if it was known that they were required to file the certificates/documents, they would have filed documents before the Tribunal.

The learned counsel for the respondents has submitted that the documents/certificates filed before the High Court are not relevant as they do not pertain to the requisite period or were obtained later on. Our attention is also drawn to the affidavit filed on 10.12.2015, inter alia, stating that some of the petitioners were trying to locate the relevant documents.

Be that as it may, we are inclined to dispose off the present writ petition by observing that it will be open to the petitioners to file another application before the Tribunal, enclosing therewith the relevant certificates/documents which they had already filed and were relied upon by them before the Appointment Board. On the basis of the said documents,

they would be entitled to plead and submit that they had requisite technical qualification, mandated workman license and required practical experience as prescribed in the RRs. If any such application is filed, the petitioners would not be non-suited on the ground that they had earlier filed and were a party to OA No.2270/2015.

The writ petition is disposed off accordingly. CM No.28927/2015 is also disposed off.

SANJIV KHANNA, J

JANUARY 19, 2016/ tp

NAJMI WAZIRI, J