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

+ **W.P.(C) 3750/2016**

% **Date of Decision: 03.05.2016**

SANJAY KUMAR

..... Petitioner

Through: Mr. Sree Narain Jha, Adv.

versus

INTELLIGENCE BUREAU & ANR

..... Respondents

Through: Mr. Akshay Makhija, CGSC with Ms. Astha Jain,
Ms. Sanjugeeta Moktan, Ms. Mahima Bahl &
Mr. Sumant Bhushan, Advs.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J

CM No.15950/2016(delay)

1. For the reasons stated in the application, the delay in re-filing the petition is condoned.

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2. This writ petition impugns the judgment and order dated 31.08.2015 of the Central Administrative Tribunal ('the Tribunal' for short) in T.A. No. 62 of 2013 dismissing the petitioner's claim to be appointed to the post of Junior Intelligence Officer, Grade-II/Motor Transport Group 'C' Non-Gazetted in the Intelligence Bureau.

3. Pursuant to an advertisement dated 23.05.2009, the petitioner had applied for the aforesaid post. The advertisement specified that the candidates will be required to drive any kind of motor vehicle and will also be responsible for its upkeep. It further stipulated the following essential qualifications – (i) matriculation or equivalent; (ii) possession of valid driving licence for motor cars; (iii) knowledge of motor mechanism; and (iv) experience for driving a motor car for atleast 3 years. As per the advertisement, interviews were to be conducted at 8 different cities spread over the country.

4. In his initial test and interview, the petitioner was given 50 marks out of 100 marks (i.e., 28 marks out of 60 marks in the driving test and 22 marks out of 40 marks in the interview). Subsequently, it was decided that, for the purpose of uniform assessment of interviews on all India basis, all candidates, who had qualified for the driving test would be interviewed afresh by a ‘Single Board’ at all the 8 centres. This board then took fresh interviews in the months of November-December, 2009. A merit list was prepared on the basis of marks obtained both in the driving test and the interviews. The petitioner, who belonged to the general category, was interviewed at Jaipur on 12.09.2009, by the Single Interview Board. He was awarded 24 marks out of 40 marks, thus scoring a total of 52 marks out of 100 (by including 28 marks previously scored in the driving test). So, in fact, the petitioner secured 2 percentage points higher in this subsequent interview than the score in the first interview. Nevertheless, he was not selected because the last general category candidate empanelled had secured 78 marks, i.e., 26 marks higher than the petitioner.

5. Learned counsel for the petitioner contends that, initially, the respondent had stated that 50 marks had been kept for assessing motor driving skills along with knowledge of the functioning of motor engine mechanism/ repairs and 50 marks were kept for the interview. However, later, the Tribunal accepted the respondent's argument that 60 marks have been allocated for driving test, i.e., 40 marks for driving and 20 marks for knowledge apropos mechanism/ repair of engines while the remaining 40 marks were allocated for the interview. These, learned counsel submits, show irregularities and interpolation of marks.

6. We are not persuaded by this argument for the simple reason that an error or mistake made earlier, will not confer any right to the petitioner. The respondent has in its reply to the O.A., affirmatively stated that the allocation of marks for testing driving skills and marks allotted for knowledge of motor engine and mechanism/ repairs, etc. was 60 and for the interview was 40, both in the first and the second assessment. The said statement on Oath, should be accepted. The allocation and division, it is difficult to perceive and accept, could be redone and written, after changing the score from 50 to 60 marks. The details and marks have to be entered and recorded. In the first interview, the petitioner secured only 22 marks whereas in the subsequent single board interview he secured 24 marks out of 40 marks. Therefore, there was no misrepresentation apropos the break-up of marks allocated for testing of driving skills and for interview.

7. We agree with the reasoning of the Tribunal that allocation of more marks for motor driving skills was worthy of credence because it is mainly for the purpose of driving of a motor vehicle that that

aptitude was to be assessed.

8. We do not find any merit in the matter. The petition is accordingly dismissed.

NAJMI WAZIRI, J

SANJIV KHANNA, J

MAY 03, 2016/acm