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

+ **W.P.(C) 3650/2017**

VIKAS AND ANR

..... Petitioners

Through: Mr. J.C. Mahindro, Advocate.

versus

UNION OF INDIA & ANR

..... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER
28.04.2017

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C.M. No. 16078/2017

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 3650/2017 and C.M. No. 16079/2017

The petitioners have preferred the present writ petition to assail the order dated 14.02.2017 passed by the Central Administrative Tribunal Principal Bench, New Delhi (CAT/ Tribunal) in O.A. No.3363/2016. The petitioners' said Original Application has been dismissed by the Tribunal. The case of the petitioners is that the respondents vide advertisement notices dated 16.05.2015, 25.05.2015 & 27.06.2015 invited applications for filling

up various posts, including those of Fireman in Army Hospital (R&R), Delhi Cantt. The petitioners being eligible, applied for the said posts. The petitioners were called for verification of their documents and subsequently for conduct of physical test. The petitioners cleared the said test and they were also called for written test, which was held on 06.05.2016. 16 posts of Firemen were available which had to be filled in the said recruitment process.

The petitioners complained that the respondents cancelled the selection process without any reason and issued fresh advertisement for the same posts on 13.09.2016. It is this action of the respondents in cancelling the earlier recruitment process, which was assailed by the petitioners along with others. The respondents justified their action on the basis of a communication dated 01.08.2016 issued by HQ Western Command (Medical Branch), which pointed out errors in the selection process due to which the selection process was abandoned and a fresh one initiated. So far as the process for the post in question is concerned, the reason for its cancellation was stated to be “*Scheme of examination has not been specified in the advertisement in National Dailies for Firemen and Fire Engine Driver categories*”.

The Tribunal accepted the said explanation of the respondents. The Tribunal held that the scheme of examination should have been notified to all the candidates in advance to maintain transparency and the same cannot be changed midway through the process of selection. By not notifying the same clearly in advance, the respondents had indeed committed a mistake which vitiated the entire selection process. The Tribunal also notes that even though the written examination had been held, the results had not been

declared at the time when the selection process was abandoned. The Tribunal has also placed reliance on *Shankarsan Dash Vs. UOI*, (1991) 3 SCC 47, in support of its view.

The submission of Mr. Mahindro, learned counsel for the petitioners is that on account of cancellation of the selection process, the petitioners' candidature for the fresh selection process was rejected since they became overage. He submits that due to initiation of the recruitment process by the aforesaid advertisements (which were cancelled), the petitioners did not apply in respect of other vacancies which came their way, in the hope that they would get selected in the said recruitment process.

Having perused the impugned order and heard Mr. Mahindro, we are of the view that there is no infirmity in the impugned order. So far as cancellation of the recruitment process in question is concerned, the same appears to be based on germane reasons, and it cannot be challenged as arbitrary or whimsical. It is not the petitioners' case that the process was cancelled arbitrarily, with a view to oust a particular candidate or candidates from the competition. The Tribunal is right in observing that the entire selection process should be declared in advance, so that there is no scope for any manipulation or challenge at a later stage. The candidates should know the details of the selection process that they have to undertake. If the selection process had not been abandoned, as done by the respondents, there is every possibility that some or the other candidate would have challenged the same on the ground of it being not transparent. We are, therefore, not inclined to interfere with the impugned order.

So far as the petitioners' grievance that the petitioners have suffered on account of cancellation of the selection process in question is concerned,

in case the petitioners have any other subsisting rights or grievances, they may agitate the same independently in civil proceedings. We, however, make it clear that this order may not be construed as one creating or vesting any fresh right or cause of action in favour of the petitioners.

Dismissed.

VIPIN SANGHI, J

DEEPA SHARMA, J

APRIL 28, 2017

B.S. Rohella