

\$~8

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

+ **W.P.(C) 10750/2016 & C.M. No.42151/2016**

SYED AHMAR ALI HASHMI Petitioner
Through **Mr.Setu Niket, Adv.**

versus

UNION OF INDIA AND ORS Respondents
Through **Mr.Manish Mohan, Adv. with**
Ms.Manisha Saroha, Adv. &
Ms.Shivangi Sinha, Adv. for R-1 & 3.
Mr.Naresh Kaushik, Adv. with
Ms.Shalini Pande, Adv. & Ms.Anjali
Sharma, Adv. for R-2.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MS. JUSTICE REKHA PALLI

ORDER
% **24.08.2017**

The petitioner has preferred the present writ petition to assail the order dated 9th November, 2016 passed in Original Application No.3748/2016. The petitioner had unsuccessfully sought to lay a challenge to the essential qualifications prescribed by the respondents for the post of Scientist 'B' (Documents) in their advertisement.

Learned counsel for the petitioner submits that when the original application was filed, the petitioner was not aware of the recruitment rules which have been placed on record in the present proceedings.

Vide order dated 6th January, 2017, the respondent/UPSC was required to examine whether there was any lapse on account of unawareness in the framing of the recruitment rules.

Mr. Manish Mohan, learned counsel submits that the issue has been examined in depth and the respondents are of the view that there is no inadvertent or other lapse in the framing of the Rules. In the original application, there was no challenge raised to the recruitment rules by the petitioner.

Learned counsel for the petitioner submits that the petitioner may be permitted to amend the original application to incorporate a challenge to the Rules and the matter may be remanded back to the Tribunal. He submits that the petitioner's form was provisionally directed to be accepted and in case the petitioner is relegated to file a fresh original application, he may suffer prejudice since he has become overage.

In view of the aforesaid, the matter is remanded back to the Tribunal. The petitioner is permitted to amend the original application to incorporate a challenge to the recruitment rules. In case the petitioner amends the original application in the aforesaid terms, the Tribunal shall determine the issue raised by the petitioner. The Tribunal shall decide the issue of validity of the recruitment rules without being influenced by the observations made in the earlier order.

The petition is disposed of in the above terms.

C.M. No.42151/2016

In view of the writ petition having been disposed of, this application does not survive for adjudication and is dismissed as such.

VIPIN SANGHI, J

REKHA PALLI, J

AUGUST 24, 2017/aa