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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 1129/2017**

Date of Decision : 27th February, 2017

SONIA Petitioner
Through Mr. Amit Sharma, Advocate
versus

DELHI STATE SUBORDINATE SERVICE
SELECTION BOARD & ANR. Respondents
Through Mr. Sanjoy Ghosh, ASC with Ms.
Pratistha Vij, Advocate for R-1

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE CHANDER SHEKHAR

SANJIV KHANNA, J. (ORAL):

Having heard learned counsel for the petitioner as well as respondents, we are inclined to set aside the impugned order dated 23.09.2016 whereby O. A. No. 3502/2015 filed by the petitioner- Ms. Sonia has been dismissed recording as under:-

“None appears on behalf of the applicant even on revised call.

2. On perusal of the impugned order, it is found that the department has passed impugned order dated 08.07.2015 in compliance of this Tribunal's order dated 20.03.2015, the applicant was given an opportunity to submit her representation which she did and after

examining her representation, it was rejected on the ground that despite several opportunities and public notice, the applicant had failed to fill up OARS form.

3. We therefore observe that this OA is not maintainable at all and is dismissed in limine.”

2. Learned counsel for the petitioner has submitted that he had wrongly noted the next date of hearing in O. A. No. 3502/2015 as 27.09.2016, instead of 23.09.2016. It is pointed out that the petitioner has filed another O.A. No.365/2016 in respect the same examination seeking clarification of the post code which is still pending and is now fixed for hearing on 02.05.2017. The contention is that the petitioner was/is sanguinely interested in pursuing her claim.

3. As per the petitioner, she was unable to upload her photograph and signature on the respondent’s Website and accordingly download her admit card. The petitioner had immediately approached the Tribunal for relief. By an interim order admit card was issued. The petitioner thereupon had appeared in the preliminary and main examination and has qualified.

4. Dismissal of the original application without detailed scrutiny and without hearing, means that the entire prolonged effort and struggle would go in vain.

5. Keeping in view the reasons given by the petitioner for his non-appearance on 23.09.2016 before the Tribunal in O.A. No.3502/2015 and after reflecting on the consequences as recorded above, we are inclined to accept this writ petition.

6. We had considered whether we could decided the entire controversy without an order of remand, albeit noticing the factual issues and matrix of the dispute, we are convinced that an order of remand is necessary and required for a just and fair adjudication as factual findings have to be recorded after possibly a detailed scrutiny and verification exercise. If required and necessary the petitioner may file an application for better particulars or details or the tribunal may require the parties to furnish details and particulars.

7. We clarify that the counsel for respondent No.1 has not conceded to this order being passed. We do feel that the petitioner does deserve a chance and indulgence to establish her case. The counsel for the petitioner has assured that he would attend all hearing and not seek adjournment.

8. We also clarify that we have not expressed any opinion on merits.

9. The writ petition is allowed in the aforesaid terms. To cut short delay, it is directed that the parties will appear before the Tribunal on 20th March, 2017, when a date of hearing will be fixed. It is open to the tribunal take up OA No. 3502/2015 along with O.A. No. 365/2016.

SANJIV KHANNA, J.

CHANDER SHEKHAR, J.

FEBRUARY 27, 2017

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