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

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Date of Decision: 28.08.2017

% **WP(C) 5948/2017 AND CM NO. 24690/2017**

UNION OF INDIA AND ANR

..... Petitioners

Through: Mr. Ruchir Mishra and Mr. Mukesh
Kumar Tiwari, Advocates

versus

NITISH KUMAR

..... Respondent

Through: Mr. Ajesh Luthra with Mr. Jatin
Parashar, Advocates for caveator.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

VIPIN SANGHI, J. (ORAL)

1. The petitioner has preferred the present writ petition to assail the order dated 21.02.2017 passed by the Central Administrative Tribunal in three Original Applications, including, O.A. No. 391/2017, preferred by the respondent. By the said common order, the Tribunal has allowed the Original Applications preferred by the applicants. The petitioner – Union of India, had also filed WP(C) No. 4829/2017 titled, '*Union of India & Ors. Vs. Sumit Kumar*' to assail the same common order passed by the Tribunal

in O.A. No. 215/2017. This Court has, vide order dated 10.08.2017, dismissed the said writ petition preferred by the petitioners and affirmed the order passed by the Tribunal. In the case of all the applicants before the Tribunal (in the three OAs), their candidature had been rejected by the petitioner on the ground that in the cover/opening-sheet of the answer books submitted by them, they had omitted to either mention the relevant subject, or failed to tick mark the correct box relating to the subject and/or medium. The petitioner claimed that the said omissions were fatal and, in that regard, placed reliance on the instructions contained in the cover/opening sheet itself, which stated that the failure on the part of the candidate to do the needful will lead to award of zero marks.

2. In the case of **Sumit Kumar** (supra), the omission committed by the candidate was that he had not tick marked the medium in which the examination was taken i.e. Hindi or English. It was held by the Tribunal, as well as by this Court, that the said omission was inconsequential and could not afford a valid justification for not evaluating the answer script of the candidate and awarding zero marks to him. The Tribunal had noticed, and we too have considered, in the course of our decision the jurisprudence on the subject.

3. We rely upon our decision in **Sumit Kumar** (supra), and for the sake of brevity, we are not elaborating either the submissions advanced by learned counsels, or our decision thereon in this order.

4. The candidature of the respondent in the present writ petition was rejected on the ground that in the cover sheet of the answer book, he had not

tick marked the column relating to the “*Subject*”. The Tribunal has, however, allowed the original application by observing that the said omission on the part of the respondent was inconsequential, since the respondent had specifically written-against the column “*Name of Examination*” all particulars and details of the said examination as “*SSC Junior Engineers (Civil & Structural) Exam 2015*”, and against the column “*Subject*”, “*Paper – II (Civil & Structural)*”. Since the relevant information had specifically been mentioned by the candidate in his own hand writing in the opening sheet of the answer book, the Tribunal held that the said omission is inconsequential.

5. From the above, it would be seen that the only omission attributed to the respondent was that he had not tick marked his stream/subject, as per post opted in the application form, against the four columns contained in the upper right corner of the opening sheet of the answer book. However, admittedly, all the relevant particulars were filled in by the respondent in his own handwriting at the appropriate place on the same opening sheet of the answer book. He had signed his answer book, and the same was also signed by the invigilator, who was obliged to sign, “*after verifying that all particulars have been filled in by the candidates properly*”.

6. We are, thus, of the view-for the reasons contained in our decision dated 10.08.2017 rendered in Writ Petition (C) No. 4829/2017, titled, “*Union of India & Ors. Vs. Sumit Kumar*” that the decision of the Tribunal in the Original Application of the respondent i.e. O.A. No. 391/2017 is unexceptionable, and does not call for interference.

7. The writ petition is, accordingly, dismissed leaving the parties to bear their respective costs.

VIPIN SANGHI, J

REKHA PALLI, J

August 28, 2017

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