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

+ **W.P.(C) 6126/2017**

MAHENDRA KUMAR SHARMA

..... Petitioner

Through: **Mr. Kartik Khanna and Mr. Varun Kr.
Jain, Advs.**

versus

**EMPLOYEE STATE INSURANCE
CORPORATION**

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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21.07.2017

CM No. 25421/2017 (for exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 6126/2017

The present petition has been filed by the petitioner with the following prayers:

“It is therefore, most respectfully prayed that this Hon’ble Tribunal may graciously be pleased to allow the present Original application thereby directing the respondent;

- a. To declare the answer opted by the petitioner as correct to the question bearing I.D. No. 7368159956 and respondent be directed to enhance the score of the petitioner accordingly;*
- b. To declare 87 questions have been correctly answered by the petitioner and 27 questions have been incorrectly answered by the petitioner;*

- c. *To release fresh merit / score list and the list of candidates finding place in select list and short listed for verification for the post of Staff Nurse for Directorate (Medical) Delhi Region on the basis of the performance in written online examination held on 21.05.2016 in two shifts accordingly;*

Or pass such other order or orders in favour of the petitioner and against the respondent as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case and in the interest of justice. ”

It is submitted by the learned counsel for the petitioner that the petitioner had approached the Central Administrative Tribunal by way of OA 100/2063/2017, which was considered by the Tribunal on 2nd June, 2017 and the following order was passed:

“After arguing for sometime, learned counsel for the applicant submits that he was not pressing grounds ‘a’ and ‘b’ of his relief clause.

Issue notice to the respondents for filing reply.

List before Pr. Registrar’s Court for completion of pleadings on 22.08.2017.

In the meantime, if any appointments made to the aforesaid posts, shall remain subject to the outcome of the OA. ”

From the above, it is clear that the petitioner had not pressed relief “a” and “b” before the Tribunal, which prayers as conceded by the learned counsel for the petitioner are similar to the Prayers “a” and “b” in this petition. If that be so, this petition for identical reliefs shall not maintainable in this court. The learned counsel states, the intent of the Tribunal while recording his statement was, the Prayers “a” and “b” cannot be considered by the Tribunal as they are not within its jurisdiction. I am unable to accept

the said plea, as, a reading of the order does not reveal so.

Learned counsel for the petitioner seeks to withdraw the petition to approach the Tribunal by way of a Review Petition.

The petition is dismissed as withdrawn.

CM No. 25422/2017 (Maintainability)

In view of the order passed in the writ petition, the application is dismissed as infructuous.

V. KAMESWAR RAO, J

JULY 21, 2017/jg