

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

Date of Decision: December 08, 2017

+ W.P.(C) 10880/2017

ROHIT BINDORIA AND ORS. Petitioners

Through: Mr. K. Vishwanath, Advocate

Versus

INDIAN RAILWAY CATERING AND TOURISM COPN LTD.
AND ANR. Respondents

Through: Mr. Nikhil Majithia, Advocate

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

ORAL

W.P.(C) 10880/2017 & C.M. 44539/2017; 44544/2017 & 44747/2017

1. In this petition, petitioners seek a mandamus to respondents to consider their name for appearing in the “*Limited Departmental Competitive Examination (LDCE)* in W-06 (scale ₹8800-20000) to be conducted on 11th, 13th & 15th December, 2017 and to direct first respondent to include the name of petitioners in the list of eligible candidates for the North Zone, issue roll numbers and inform them about the date and venue of the examination.

2. This is second round of litigation. In the first round of litigation, petitioners had sought regularization of their services while claiming that

they have worked on fixed terms on the post of W-4 & W-1 and their services were illegally terminated on 9th January, 2012. The order which came to be passed in the first round of litigation was to the effect that petitioners have no right to seek regularization of their services in the light of Supreme Court's decision in *Secretary, State of Karnataka Vs. Uma Devi & ors.*(2006) 4 SCC 1 and vide order of 11th February, 2015, respondents were directed to consider grant of age relaxation to petitioners as and when appointments to the posts of in question is made. It was also directed vide aforesaid order of 11th February, 2015 that if permissible, benefit of experience be also granted to petitioners.

3. Vide Notification of 3rd November, 2017, respondents had sought to fill up the vacancies in W-6 in the "*Limited Departmental Competitive Examination (LDCE)*". Petitioners have now approached the Court at the eleventh hour, as the examinations are to commence on Monday i.e. 11th December, 2017. It is pertinent to note that petitioners had not made any Representation to respondents nor they have pleaded anywhere as to how they came to about the Notification in question. Petitioners are totally silent on this aspect. In such a case, no discretion can be exercised to permit petitioners to appear in the aforesaid departmental examination. Such a view is being taken as learned counsel for respondents submits that this examination is a departmental examination and is not an open examination and so, petitioners cannot be allowed to appear in this examination and whenever direct recruitments to the posts under W-1 and W-4 category are made, then petitioners would be certainly considered in the light of order of 11th February, 2015, passed in the earlier litigation.

4. In the facts and circumstances of this case, this petition and the applications are disposed of while clarifying that the “*Limited Departmental Competitive Examination (LDCE)*” in question is being conducted for inhouse candidates and petitioners are out of service since 2012, and therefore, the relief sought in this petition cannot be granted.

**SUNIL GAUR
(JUDGE)**

DECEMBER 08, 2017

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