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

% *Date of Judgment: 9th August, 2018*

+ LPA 135/2017

SARVESH AGRAWAL Appellant

Through Mr. Ashwin Kumar Nair, Mr. Vedit
Monga and Mr. Vikas Upadhyay,
Advocates

versus

UNION OF INDIA & ANR Respondents

Through Mr. Rajesh Gogna, Advocate

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. The present appeal is directed against the order passed by a learned Single Judge of this Court dated 26.05.2016 in a writ petition filed by the petitioner, appellant herein.
2. The necessary facts to be noticed for disposal of this appeal are that an advertisement bearing no.NGT(PB)59/RR/2013 was published by the National Green Tribunal(NGT) inviting applications for recruitment to the post of PA Stenographer-Grade C/Court Master on 17.04.2013. The appellant made an application on 22.04.2013 and applied for the post of PA/Court Master(Hindi). He was informed on his registered mobile number to submit documents relating to his present employment with the Government on 03.06.2013. Admittedly, the appellant appeared in the written examination conducted on 08.09.2013.

3. The complaint of the appellant is that he was not informed about the outcome of the written examination, which forced him to contact the office of respondent no.2/NGT on telephone on 25.09.2013. On 04.10.2013, the appellant was informed that the result had been declared and is available on another web-site. On checking the web-site, the appellant was shocked to learn that although he had qualified in the written examination, but he was never informed about the date of interview, which led to filing of two representations dated 05.10.2013 and 28.10.2013. The appellant admittedly was called for the interview subsequently.
4. Learned counsel appearing on behalf of the appellant had pressed two grounds, firstly the successful candidate in the OBC category had resigned, but neither the first candidate in the waiting list nor the second candidate, i.e., the appellant herein was offered the post, but the person at Serial no.3 was selected.
5. Mr. Gogna, learned counsel for the respondent has fairly admitted and as noticed by the learned Single Judge that since the person who had resigned belonged to a reserve post was from OBC category, the next person from the OBC category was offered to fill the post.
6. Learned counsel for the appellant is satisfied with this explanation, but submits that the entire procedure followed by the respondent was not transparent and was not free from doubt as the appellant was interviewed after a gap of 102 days and names of none of the persons who were interviewed subsequently were included in the list of selected candidates. Additionally, the counsel submits that the interview conducted was a sham as even prior to the date of the interview of the

appellant, the selected candidates were issued appointment letters and the persons who had already starting working.

7. We have heard the learned counsels for the parties. Although, we find it rather strange that the respondent had conducted the interview of some of the candidates after a gap of 102 days, we also find it strange that once the respondent had decided to conduct the second interview, there was no reason for them to issue appointment letters to the candidates who had already been selected pursuant to the first interview held, to this Mr. Gogna has labored hard and also produced the record to contend that since some of the candidates did not receive the interview letters, the respondent acted in a fair and just manner and conducted the second interview and since the appellant and similarly situated persons did not qualify, thus the delay in conducting the interview cannot be faulted.
8. We are persuaded by the arguments of learned counsel for the appellant that there would be no purpose of conducting the second round of interview when the selected candidates were already issued appointment letters without any rider that their appointment was subject to the second round of interview.
9. At this stage, we had asked the learned counsel for the appellant that the rights of the selected candidates would be affected if this Court was to decide the matter, to which learned counsel for the appellant submits that he was conscious of this fact and he had made an application even prior to the notice being issued in the writ petition to implead the selected candidates as parties. The learned Single Judge did not entertain the application.

10. Keeping the aforesaid background in mind, we are of the considered view that this matter requires consideration. Without expressing any opinion on the merits of the matter, the impugned order dated 26.05.2016 is set aside. The matter would be listed before the learned Single Judge, when notice would be issued in the application seeking impleadment of the selected candidates of the first list and the interviewed candidates of the second list and upon hearing of all the parties, a fresh decision would be taken in the matter.
11. The parties to appear before the learned Single Judge on 20.09.2018.
12. The appeal stands disposed of in above terms.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

AUGUST 09, 2018

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