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

+ **W.P.(C) 4294/2018**

SH. DEV KUMAR AND ORS

..... Petitioners

Through: **Ms.Kusum Lata Sharma, Advocate**

versus

THE CHAIRMAN, DSSSB AND ORS.

..... Respondents

Through: **Mr.Nitesh Kumar Singh, Advocate**
for **Mrs.Avnish Ahlawat, St.Counsel**
for **GNCTD (Services)**

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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27.04.2018

1. Twelve petitioners herein out of twenty three applicants before the Tribunal in O.A.No.2091/2016, have challenged the order dated 22.03.2018, passed by the Central Administrative Tribunal, rejecting their prayer for setting aside the Result Notice No.389 dated 11.05.2016, whereby the result for Grade IV (DASS)/LDC (Post Code 68/12), was rejected and their request for appointing them to the subject posts was turned down.

2. The brief undisputed facts of the case, as gleaned from the impugned order are that the respondents/Delhi Subordinate Services Selection Board (DSSSB) had issued Advertisement No.02/2012, inviting applications from eligible candidates for the Post Codes 48/12, 52/12 and 68/12, for filling up several vacancies including those in the Grade IV(DASS)/LDC in the

Service Department-III of GNCTD of Delhi (vide Post Code 68/12), fixing 15.06.2012 as the date for closing the applications. The respondents/DSSSB issued an addendum dated 08.05.2013, increasing the vacancies for the said post from 924 to 1659, on the basis of the letter received from the Service Department, GNCTD. A Single Tier combined written examination for three Post Codes was conducted by the respondents/DSSSB on 16.11.2014, wherein the petitioners had participated.

3. On the basis of the marks scored by the candidates, the respondents/DSSSB published a list of candidates shortlisted for the Skill Test, scheduled to be held from 16.05.2015 to 24.05.2015. The petitioners duly appeared in the skill test and the results were published by the respondents/DSSSB on 14.12.2015, wherein the names of the petitioners had appeared. The said list prepared by the respondents/DSSSB was with roll numbers and not in the order of merit. While publishing the notice dated 29.12.2015, the respondents/DSSSB called upon the candidates, including the petitioners herein, who had qualified for the skill test for the said post, to submit their documents for verification. The petitioners had duly appeared and submitted their documents to the respondents/DSSSB.

4. The respondents/DSSSB had issued a notice dated 25.04.2016, granting an additional opportunity to those candidates, who did not appear for verification of documents or did not submit their documents for verification, to enable them submit their documents for verification on 5th and 6th May, 2016. Thereafter, Result Notice No.389 dated 11.05.2016 of the provisionally selected candidates for the Post Code 68/12 was declared wherein the names of the petitioners did not appear. Aggrieved thereby, the petitioners and some others approached the Tribunal for relief.

5. After completion of the pleadings before the Tribunal, the impugned

order was passed, wherein it was observed that the applicants had failed to implead those candidates who had been granted an additional opportunity by the respondents/DSSSB to appear and submit their documents for verification. It was also observed that the candidates who were selected had secured more marks in the written examination than the petitioners. A computed statement, containing the details of the said nine candidates has been extracted in para 7 of the impugned order.

6. In view of the aforesaid position, the Tribunal observed that once the nine candidates referred to in para 7 of the impugned judgment had scored more marks in the written examination than the petitioners, there was no error on the part of the respondents/DSSSB in granting them an additional opportunity to submit their documents for purposes of verifications so as to declare the final list of selected candidates. It was also noticed that those candidates who were selected belonged to different categories and had scored more marks than the petitioners and therefore, raising of the cut-off marks in the examination could not vitiate the Result Notice. Aggrieved by the said order, the petitioners have filed the present petition.

7. Learned counsel for the petitioners states that the Tribunal has erred in passing the impugned order, as it failed to appreciate the plea taken by the petitioners that the respondents/DSSSB did not have the right to change the cut-off list, after verification of the documents. She further states that the Tribunal ought to have given an opportunity to the petitioners to implead the private respondents, who were selected by the respondents/DSSSB instead of dismissing the petition on the said ground.

8. We have perused the counter-affidavit filed by the respondents/DSSSB before the Tribunal. It transpires therefrom that a preliminary objection was taken by the respondents/DSSSB with regard to

non-impleadment of the candidates against whom the petitioner had levelled allegations of being included in the final select list. Despite the same, the petitioners elected not to implead the private respondents at their own risk and peril. Further, in the counter-affidavit, the respondents had set out a tabulated statement of the marks obtained by the petitioners in the written examination. A perusal thereof reveals that all of them were not selected because their marks were below the cut-off marks, which for the purposes of the Post Code 68/12 in the un-reserved category were 150, in the OBC category were 110, in the SC category were 138.75 and in the ST category were 122. It was also been averred in the counter-affidavit that the marks of the last selected candidate in the Post Code 48/12 in the un-reserved category were 152.75, in the OBC category were 110 and in the SC category were 138.50.

9. Given the aforesaid position, we are of the opinion that even on merits the impugned order does not deserve interference as the justification for rejecting the OA filed by the petitioner is flawless. Accordingly, the present petition is dismissed as meritless, along with the pending applications.

HIMA KOHLI, J.

REKHA PALLI, J.

APRIL 27, 2018

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