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

+ W.P.(C) 3864/2017

PANKAJ PRABHAT

..... Petitioner

Through: Ms. Saahila Lamba, Adv.

versus

UOI AND ORS

..... Respondent

Through: Mr. Ripu Daman Bhardwaj, CGSC
with Mr. T.P. Singh, Adv.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

15.11.2018

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1. The petitioner has preferred the present writ petition to assail the order dated 23.07.2016 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. No. 3450/2013. By the impugned order the Tribunal has dismissed the said original application. The petitioner was serving as a Postal Assistant in the Postal Department. He appeared in Limited Departmental Examination (LDE) held on 10/12.08.2007 for appointment to the post of Inspector. He was awarded 38 marks in Paper – III whereas the minimum qualifying marks were 40. The results were declared on 21.05.2008 & 28.06.2008. For the first time, the petitioner sought to represent against the marks awarded to him in respect of question No.7 of Paper – III on 04.02.2013. The petitioner sought to bank upon the developments which had taken place in the meantime at the behest

of other examinees who had approached the Tribunal and the High Court. The respondents appeared before the Tribunal and stated that the answer sheets had been destroyed on 20.07.2012 in terms of the rules after preserving the same for a period of 4 years. The original answer scripts were, therefore, not available.

2. The Tribunal rejected the O.A. as barred by limitation, on account of the fact the cause of action arose in the year 2008, whereas, the Original Application had been preferred only in the year 2013. In the meantime, the original answer sheets had also been destroyed.

3. The submission of Ms. Lamba is that the orders passed in other Original Applications and writ petitions show that the answer to question No. 7 given by the petitioner deserved full marks, whereas, he had been awarded only 5 marks out of 10.

4. In our view, there is no merit in the submission of the petitioner. Firstly, the petitioner slept over his rights and did not agitate the same for over 5 years. Even his representation was made in the year 2013 when the record had already been weeded out. Merely because others may have raised their grievance in the meantime and got relief from the Tribunal or the High Court, is no reason for the petitioner not to have pursued his case. Just like others agitated their rights, it was obligatory for the petitioner to do so in his own interest.

5. The petitioner has sought to rely upon the copy of the answer sheet he claims to have received under the Right to Information Act. That answer sheet cannot be the foundation of the petitioner's claim. It is only the original answer sheets which the respondents preserved for 4 years, which

could have been looked at, even if one were to require the respondents to have a re-look at the answer sheet and re-evaluate the same.

6. Since, that is not available no such direction, in any event, could have been issued. The Limited Departmental Examination process was conducted in the year 2007 and we are in the year 2018. For this reason as well, we are of the view that the petitioner does not deserve any relief in the present petition and he himself is responsible for the situation that he finds himself in.

7. Dismissed.

VIPIN SANGHI, J

A. K. CHAWLA, J

NOVEMBER 15, 2018

N.Khanna