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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 12047/2016**

POONAM AND ORS Petitioners
Through: Mr. Ankur Chhibber, Advocate

versus

UNION OF INDIA AND ORS Respondents
Through: Mr. Sarat Chandra, Advocate

AND

+ **W.P.(C) 3323/2017**

MADAN SINGH Petitioner
Through: Mr. Ankur Chhibber, Advocate

versus

UNION OF INDIA & ANR Respondents
Through: Ms. Poonam Kalia, Advocate

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **10.10.2018**

CM APPL. 13452/2018 (by the respondents for condonation of delay of 50 days in filing the counter affidavit) in W.P.(C) 12047/2016

1. For the reasons stated in the application, the same is allowed. The delay of 50 days in filing the counter affidavit is condoned.
2. The application is disposed of.

W.P.(C) 12047/2016 [CM APPL. 47606/2016 (stay)] and W.P.(C) 3323/2017

1. The petitioners are aggrieved by the action of the respondents in issuing a Notification dated 08.11.2016, cancelling the recruitment to the

post of Inspector (Hindi Translator) - 2015 in the ITBP due to administrative reasons and further, informing that fresh vacancies for the subject post will be advertised in due course.

2. Vide order dated 22.12.2016, the respondents were permitted to re-advertise the vacancies in question but it was directed that no final appointment shall be made without leave of this Court.

3. Learned counsel for the petitioners states that the respondents could not have scrapped the entire examination on the ground that there were errors in tallying the results on the part of the examiner in 3 successive evaluations. He submits that there were only 179 candidates who had participated in the said examination and therefore, those who had secured the qualifying marks in the final evaluation, ought to have been appointed by the respondents.

4. Mr. Sarat Chandra, learned counsel for the respondents however disagrees and states that subsequent to declaring the result of the subject examination on the website of the ITBP, the same had to be re-called on account of several shortcomings in the process, which included incorrect framing of questions, incorrect answer key, change in the merit lists thrice over, amongst others.

5. In view of the aforesaid submission made by learned counsel for the respondents as recorded in the order dated 07.12.2017, the respondents were directed to prepare a comprehensive statement in respect of all the 179 candidates, indicating *inter alia* the relevant information including the marks that were granted to them during all the three evaluations. The respondents were also directed to indicate therein as to which of the candidates had by now become over age to apply for the said post.

6. In compliance with the said directions, the respondents have filed an application enclosing therewith the information, as directed. Further, the respondents have filed a supplementary counter affidavit wherein, it has been averred that the written examination for the above recruitment was held on 28.02.2016 and 179 candidates had appeared for the same. After evaluation and conduct of interviews on 15/16-03-2016, the list of qualified candidates in the written test was forwarded to the Director General, ITBP, New Delhi for uploading the same on the website of the ITBP, which was accordingly uploaded on the website of the ITBP, for a detailed medical examination, to be conducted on 18.03.2016. After conducting the detailed medical examination, all the relevant documents relating to the recruitment process were sent to the Nodal Officer on 21.03.2016. When all the documents received from the Recruitment Board were examined at the end of the Nodal Officer, some irregularities were noticed in the answer sheets of various candidates including the one who had secured the first rank in the written examination. It was also found that there were some other irregularities in the evaluation of the answer sheets of the written examination.

7. The said irregularities were brought to the notice of the DG, ITBP and was followed by a detailed discussion held between the DG, ITBP and IG Headquarter, Directorate General, ITBP and it was decided that appropriate action should be taken on this issue by the Nodal Officer, who was responsible for conducting the recruitment process. As a result thereof, the Nodal Officer decided to send all the answer sheets of the written examination to the Presiding Officer of the Recruitment Board for a thorough re-evaluation and the re-evaluation took place on 29.03.2016.

After noticing several shortcomings in the evaluation of the answer sheets and noticing significant variation in the marks of the two merit lists, a decision was then taken at the level of the Director General to constitute an independent high level Board of Officers for conducting another re-evaluation of answer sheets and prepare a revised merit list.

8. After a thorough re-evaluation of the answer sheets, it came to the notice of the Board of officers that there were several other shortcomings in the evaluation process carried out thus far, including inaccurate setting of questions, inaccurate preparation of answer key and even the second re-evaluation had not been conducted as per directions of the Nodal Officer, etc. After the third re-evaluation at the level of Directorate General, it was noticed that there were substantial changes in the merit list and it was observed that some of the candidates did not secure necessary marks and were not eligible to be shortlisted for the interview, which had already been conducted. In these circumstances, the Board recommended cancellation of the entire recruitment process and uploaded the said decision on the website of the ITBP on 04.11.2016.

9. We have examined the statement submitted by the respondents showing the marks obtained by the candidates in the written examinations held on 28.02.2016 and in all the three evaluations, including the marks awarded in the interview as also in the first and second evaluations (alongwith their age as on 07.12.16) for recruitment to the subject post. On perusing the said statement, we find that there are extreme variations in the marks of some of the candidates in the three evaluation conducted by the respondents.

10. We are, therefore, of the opinion that it would not be appropriate for the respondents to declare the final result on the basis of the third re-evaluation as is being prayed for by learned counsel for the petitioner. Instead, it is deemed appropriate to dispose of the present petitions with directions issued to the respondents to conduct a fresh recruitment for the post of Inspector (Hindi Translator) in the ITBP in a time bound manner as much time has already been lost in the process. The entire process shall be concluded by the respondents within four months from today including declaration of the results. The fresh process shall be supervised by a senior ranking officer of the ITBP to ensure that there are no further errors, omissions, etc., in the process. It is also directed that as a one time measure, all the candidates who had participated in the subject examination earlier, would be treated as eligible to participate in the proposed examination, even if they have become overage as, in our opinion, they cannot be blamed in such a situation since the entire fault lies at the door of the respondents.

11. The petitions are disposed of, along with the pending application. In the event, the respondents fail to adhere to the time schedule fixed at their request, as has been noted above, the petitioners shall be at liberty to take appropriate legal recourse.

HIMA KOHLI, J

REKHA PALLI, J.

OCTOBER 10, 2018

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