

\$~40

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 881/2019
NEELAM MALIK Petitioner
Through : Mr. Y.S. Chauhan, Advocate.
versus

DELHI SUBORDINATE SERVICES SELECTION
BOARD & ANR Respondents
Through : Mr. N.K. Singh, Ms. Palak rohmetra,
Advocate for Ms.Avnish Ahlawat,
Standing Counsel for GNCTD
(Services).

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **28.01.2019**

CM No. 3957/2019 (Exemption)

Allowed, subject to all just exceptions.

This application is, accordingly, disposed of.

W.P.(C) 881/2019

Issue notice.

Learned counsel for respondents accepts notice. A short question arises in the present writ petition. We have heard learned counsels for the parties and therefore, proceed to dispose of the writ petition.

The petitioner has preferred the present writ petition assailing the order dated 27.07.2018 passed by the Central Administrative Tribunal, Principal Bench, New Delhi. The Tribunal had passed an order on 16.06.2015 permitting the petitioner to participate in the Tier-II examination. Accordingly, the petitioner had appeared in the said

examination. The petitioner had then moved M.A. 2710/2016 before the Tribunal with the prayer that her result may be declared. When that application was moved, the Tribunal dismissed the Original Application 2171/2015, on the assumption that the petitioner had failed to succeed in the Tier-II examination.

It is pointed out by learned counsel for the petitioner that as a matter of fact, the result of the petitioner in the Tier-II examination had been kept in a sealed cover, which position is admitted to by the learned counsel for the respondents and, consequently, it could not be said that the petitioner had not succeeded in the said examination.

In view of the aforesaid position, it is clear that the Tribunal has proceeded on a wrong assumption of facts.

Accordingly, we set aside order dated 27.07.2018 and remand the case back to the Tribunal for adjudication on merits. The sealed cover shall be opened before the Tribunal and in case, the petitioner has succeeded for Tier-II examination, then alone, the question of hearing of the Original Application would arise, and not otherwise.

The parties shall appear before the Tribunal on 12.02.2019.

The petition stands disposed of.

VIPIN SANGHI, J

A. K. CHAWLA, J

JANUARY 28, 2019

j