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

% *Date of Judgment : 5th December, 2019*

+ W.P.(C) 3694/2019

SANDEEP SINGH

..... Petitioner

Through

Mr. Harpreet Singh with Ms. Suhani
Mathur, Advocates.

versus

UNION OF INDIA & ANR

..... Respondents

Through

Mr. Sushil Kumar Pandey, Sr. Panel
Counsel with Mr. Himanshu Pathak,
G.P.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

G.S. SISTANI, J. (ORAL)

1. The present writ petition is directed against order dated 11.03.2019 passed by the Central Administrative Tribunal in Contempt Petition No.683/2018 filed in O.A. No.2953/2018.
2. With the consent of parties, the present writ petition is set-down for final hearing and disposal at the admission stage itself.
3. The petitioner had filed O.A. bearing No.2953/2018 seeking the following reliefs, which was disposed of by an order dated 07.08.2018:

“a. Quash and set aside the impugned speaking order dated 27.04.2018 passed by the respondent;

- b. *DIRECT the respondents to consider the candidature of the applicant as per the merit and to recruit the applicant for the said post, and*
- c. *DIRECT the respondents to consider the candidature of the applicant at par with the applicants in the case of Sumit Kumar & Ors. Vs. Union of India & Ors. and when the required qualification is fulfilled, as proposed in the advertisement (as detailed in the O.A.), passed/issued by the Respondents and/or keep one seat vacant as per candidate's top preference in the application form for the applicant till the final disposal of the OA.*
- d. *DIRECT the respondent to recruit the applicant as per the top preferences made by the applicant in the application form.*
- e. *DIRECT the respondent, should any difficulty arise in 2015, applicant may be recruited in year 2016 as per his merit."*

4. The petitioner had applied for the post of Junior Engineer (Civil and Structural) pursuant to an advertisement dated 11.07.2015 issued by the Staff Selection Commission (SSC) for the post of Junior Engineer (Civil, Mechanical, Electrical, Quantity Survey and Contract). He appeared in the examination for Paper-I held on 31.01.2016 and cleared the same. Consequently, he became eligible to sit for Paper-II of the same examination held on 24.07.2016. He appeared in the Paper-II also and cleared the same. However, vide order dated 25.01.2017 the respondents rejected the candidature of the petitioner on the ground that the petitioner had not ticked the subject on the answer sheet.

5. Aggrieved by the action of the respondents, O.A. No.4340/2017 was filed by the petitioner, which was disposed of vide order dated 08.12.2017 with a direction to the petitioner to submit a fresh representation against the rejection of his candidature; and directing the respondents to decide such representation. The non-compliance of order dated 08.12.2017 led the petitioner to file a Contempt Petition No.202/2018. Thereafter, the respondents passed order dated 27.04.2018 on the petitioner's representation against which the petitioner filed O.A. No. 2953/2018, which was disposed of by an order dated 07.08.2018, with the following directions:

“6. In this view of the matter, for the forgoing reasons, the impugned order dated 27.4.2018 is quashed and set aside. The respondents are directed to pass a reasoned and speaking order on the representation of the applicant within a period of two months from the date of receipt of a certified copy of this Order.”

6. Pursuant to the aforesaid directions, admittedly a detailed, speaking order dated 30.11.2018 has been passed by the respondents. Consequently the Contempt Petition filed by the petitioner was disposed of vide order dated 11.03.2019, paragraphs 3 and 4 of which order have been reproduced below:

“3. In view of the above, we find substantial compliance with the order of this Tribunal. Hence, notice is discharged and the CP is closed.

4. However, liberty is given to the applicant to challenge the order now passed by the respondents, if so advised, in accordance with law.”

7. Mr. Singh, learned counsel for the petitioner submits that the main reason for not considering the representation of the petitioner was that

the orders passed by the Delhi High Court in the case of ***Union of India & Ors. Vs. Sumit Kumar***; W.P. (C) 4829/2017 and ***Union of India & Anr. Vs. Avinash Chandra Singh & Ors.***; W.P. (C) 6086/2017 have been stayed by the Supreme Court. Attention of the court is drawn to paragraph 19 of speaking order dated 30.11.2018, which we reproduce below:

“19. Whereas, the effect of Order dated 10.08.2017 passed in Sumit Kumar case by the Hon’ble High Court of Delhi in WP No.4829/2017 and its Order dated 29.08.2017 in Avinash Chandra Singh & Ors. case in W.P. No. 6086/2017 was spreading to other Examinations of the Commission in addition to JE Exam 2015, e.g. CGLE 2016 and CHSLE 2016 and was setting a dangerous precedence which carried the potential to demolish/unsettle the entire Rule position and the sanctity of the examinations and adversely impacting the entire recruitment processes of the Commission. Therefore, an SLP has been filed in the Hon’ble Apex Court against the Judgment and Order passed by the High Court of Delhi dated 10.08.2017 in the case of Shri Sumit Kumar and the Hon’ble Apex Court has stayed the said Order of High Court vide its order dated 23.07.2018. Copy of Apex Court Order dated 23.07.2018 is enclosed as Annexure -I.”

8. Mr. Singh contends that now however the Special Leave Petition (SLP) against order dated 10.08.2017 passed in the case of ***Sumit Kumar*** (*supra*) stands dismissed by an order dated 22.11.2019; and the respondents are therefore bound to give effect to the directions passed in the case of ***Sumit Kumar*** (*supra*) and ***Avinash Chandra*** (*supra*) since these cases cover the case of the petitioner as well.
9. Learned counsel appearing for the respondents however submits that there is no infirmity in order dated 11.03.2019 passed by the Tribunal since in compliance with the directions contained in order dated

07.08.2018 passed by the Tribunal, the representation of the petitioner stands decided. He further submits that the stay orders granted by the Supreme Court was only one of the reasons for rejecting the representation of the petitioner, alongwith the other reasons as stated in paragraphs 13 to 17 of the speaking order, which reasons also cannot be faulted.

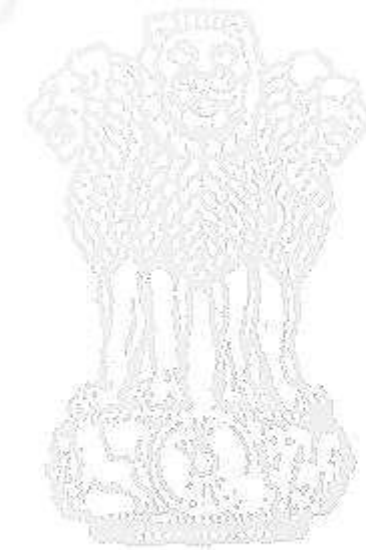
10. We have heard learned counsels for the parties and have given our thoughtful consideration to the matter.
11. The Contempt Petition was disposed of by the Tribunal by observing that there was substantial compliance with order dated 07.08.2018; and counsel for the respondent is correct to that extent that there is no infirmity in the order so passed by the Tribunal. However, this court cannot lose track of the fact that in paras 19 to 21 of the speaking order, the respondents had taken note of the fact that Supreme Court had stayed the orders passed by the Delhi High Court in the case of **Sumit Kumar** (*supra*) and **Avinash Chandra** (*supra*); which stay orders have since been vacated upon dismissal of the SLPs; and the effect of such vacation cannot be ignored.
12. Resultantly, the writ petition is disposed of with a direction to the respondents to reconsider order dated 30.11.2018 passed by them in the light of the fact that the SLPs filed by Union of India wherein judgments of Delhi High Court in **Sumit Kumar** (*supra*) and **Avinash Chandra** (*supra*) were stayed, now stand dismissed.
13. Let a speaking order on reconsideration of the aforesaid be passed within a period of six weeks from today.

14. The writ petition and pending applications, if any, stand disposed of in the above terms.

G.S. SISTANI, J

ANUP JAIRAM BHAMBHANI, J

DECEMBER 05, 2019
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