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

+ W.P.(C) 3360/2015

SANJEEV KUMAR SHARMA

..... Petitioner

Through: Mr Pramod Gupta with Ms Vrinda
Arora, Advocates.

versus

NATIONAL COMMISSION FOR SCHEDULE
TRIBES & ORS.

..... Respondents

Through: Mr Jagdeep Kumar and Mr
Deepankur Sondhi, Advocates for R-
2/NDMC.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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13.03.2019

1. The petitioner has filed the present petition, *inter alia*, praying as under:-

“a. Issue a writ order or direction, restraining National Commission for Scheduled Tribes from interfering and hindering the judicial proceedings already pending before Central Administrative Tribunal in OA no. 4043 of 2013 and directing NCST not to pass any direction on any issue which is the subject matter of OA no. 4043 of 2013;

b. Issue a writ order or direction, restraining National Commission for Scheduled Tribes from passing any direction on any issue which is administrative in nature, especially when there is no caste based harassment or discrimination;

c. Quash and set aside the order dated 03.01.2015 and 11.03.2015 passed by the National Commission for Scheduled

Tribes and the consequential order dated 19.03.2015 passed by NDMC qua the petitioner.”

2. Insofar, as the dispute raised by the petitioner regarding seniority is concerned, the same is settled in favour of the petitioner by the judgement dated 10.07.2017, passed by the Division Bench in W.P.(C) 5453/2015. Therefore, the principal grievance of the petitioner has been addressed. Nonetheless, learned counsel appearing for the petitioner had indicated that the relief sought in prayer clause (c) would still remain. In this regard, this Court had passed the following order on 09.03.2018:-

“1. Mr. Saharya, who appears for NDMC says that in view of the Division Bench judgment dated 10.7.2017, passed in W.P.(C) No.5453/2015, the main grievance of the petitioner stands addressed.

2. Mr. Gupta on the other hand says that the relief which is sought for in prayer clause (c) remains outstanding.

3. Mr. Saharya will take instructions as to whether after the Division Bench judgment, the orders referred to in prayer clause (c) would stand. In other words, whether NDMC would be willing to withdraw the said orders.

3.1 In doing so, and in deliberating upon this issue, the NDMC will take into account the judgment of Delhi High Court dated 28.5.2014, passed in W.P.(C) 2390/2012, titled: *Union of India and Anr. v. National Commission for Schedule Caste Anr.* and of the Supreme Court titled: *All India Indian Overseas Bank SC and ST Employees' Welfare Association v. Union of India*, (1996) 6 SCC 606.

4. These judgments delineate the powers of National Commission for Scheduled Tribes as conferred upon it under Article 338 of the Constitution.

5. Accordingly, renotify the matter on 17.7.2018.”

3. Thereafter, the petitioner filed an application to amend the writ petition, by seeking the following additional relief:-

“(d) Issue a Writ order or direction in the nature of a Certiorari Quashing or setting aside the directions as contained in the letter dated 08.12.2015 read with the proceedings of NCST dated 09.11.2015.”

4. The learned counsel appearing for the New Delhi Municipal Council (Respondent No. 2- NDMC) states that the petitioner’s grievance with regard to orders dated 03.01.2015 and 11.03.2015, passed by the National Commission for Scheduled Tribes, and the consequential order dated 19.03.2015 passed by the NDMC, also does not survive. This is so because in terms of the decision of this Court in ***Union of India and Anr. v. National Commission for Scheduled Caste and Anr.: W.P.(C) 2390/2012*** decided on 28.05.2014 and the decision of the Supreme Court in ***All India Indian Overseas Bank SC and ST Employees Welfare Association and Others v. Union of India: (1996) 6 SCC 606***, the orders passed by the National Commission for Scheduled Tribes, in regard to service matters, are not binding on the concerned authorities.

5. The powers of the National Commission for Scheduled Tribes, does not extend to adjudicating disputes regarding service matters. In view of the above, the directions contained in the letter dated 08.12.2015, issued by the National Commission for Scheduled Tribes, and the proceedings dated 09.11.2015 also do not stand and are, accordingly, set aside.

6. No further orders are required to be passed in this petition. The same

is, accordingly, disposed of.

MARCH 13, 2019
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VIBHU BAKHRU, J