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

+ **W.P.(C) 3766/2017 & C.M. No.16581/2017**

SOUTH DELHI MUNICIPAL CORPORATION Petitioner

Through: Mr.Rakesh Mittal and Ms.Yamini Mittal,
Advocates for the petitioner.

versus

DR. PRADEEP KUMAR GOSWAMI & ANR Respondent

Through: Mr.M.K. Bhardwaj, Advocate

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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26.02.2019

South Delhi Municipal Corporation has assailed the order dated 9.9.2016 passed by the Central Administrative Tribunal in O.A. No.165/2013 preferred by the respondent. The tribunal has allowed the said Original Application and quashed the order dated 8.11.2012 passed by the petitioner, rejecting the respondents claim for appointment to the post of Ayurvedic Compounder. The tribunal has directed the petitioner to appoint the respondent to the said post. It was also directed that the respondent would draw pay and allowances from the date on which he joins and no arrears would be paid to the respondent.

The petitioner issued an advertisement for the post of Ayurvedic Compounder on 5.6.2003. The respondent and several

other candidates submitted their application by the cut off date i.e. 30.6.2003. The examination to the said post was held on 4.4.2004. The results were however, not declared on account of litigation initiated before the tribunal. On 14.1.2010 in one of the original applications the tribunal has directed the petitioner to declare the result. Consequently, the results were declared and the successful candidates were called upon to submit their documents. The respondent also submitted his documents. The petitioner vide result notice dated 28.8.2012 had declared that no candidate was found eligible / suitable for selection to the post of Ayurvedic Compounder. The respondent was aggrieved by the said action of the petitioner and he preferred an O.A. No. No.3156/2012, which was disposed of on 20.9.2012, directing the petitioner to pass a speaking order as to why the respondent's candidature was rejected. Consequently, order was passed by the petitioner on 8.11.2012 conveying its reasons for rejection of the respondent's candidature.

The same was also assailed by the respondent before the Tribunal in O.A. in question. The Tribunal found that the respondent has obtained Bachelor of Ayurvedic Medicine and Surgery qualification from the University of Delhi in the year 1995. The same is of five and a half year regular degree programme, which also entails practical training for two years which was undergone by the respondent in the years 1993-94 to 1994-95. The respondent is a physically challenged candidate and considering the fact that he was a qualified Ayurvedic Doctor holding a Bachelor of Degree in Ayurvedic Medicine and Surgery, the Tribunal held that he could not

be said to be less qualified for the post of Ayurvedic Compounder. The practical training undergone by the respondent for two years while taking Bachelor of degree course in Ayurvedic Medicine and Surgery was treated to be sufficient experience in terms of the advertisement. Though, counsel for the petitioner sought to urge that the tribunal has not appreciated the fact that the respondent does not have one of the enlisted qualifications, and that the experience earned in practical training cannot be a substitute for two years experience as an Ayurvedic Compounder, we are not inclined to go into the said issues in the special facts and circumstances of this case taking note of hereinabove. In exercise of our jurisdiction under Article 226 of the Constitution of India, while undertaking judicial review, we are not obliged to interfere with each and every order of the tribunal, which may have been passed, if we are satisfied that the same meets the ends of justice. We, therefore, decline to interfere with the impugned order passed by the tribunal, while making it clear that the same shall not form a precedent for any other case. The petition stands dismissed in above terms.

VIPIN SANGHI, J

A. K. CHAWLA, J

FEBRUARY 26, 2019

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