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

+ **W.P.(C) 11628/2018 & C.M. APPLs. 44902/2018 and 44904/2018**

ASHUTOSH DUBEY AND ORS.

..... Petitioners

Through: Mr. A. K. Bhardwaj, Advocate.

versus

**DELHI SUBORDINATE SERVICES SELECTION BOARD AND
ANR.**

..... Respondents

Through: Ms. Avnish Ahlawat, Standing Counsel,
GNCTD with Mr. N. K. Singh and Mr.
Himank Ahuja, Advocates for R-1.
Ms. Aditi Gupta, Advocate for R-2.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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22.01.2020

1. On 29th October, 2018, the following order was passed:-

“Issue notice. Mrs. Ahlawat accepts notice.

The petitioner had approached the Tribunal with the allegation that in the examination several questions were out of syllabus. The Tribunal had issued notice in the original application and sought the response of the respondent DTC. During the pendency of the original application, the respondent communicated that none of the 15 candidates have qualified for the examination and, therefore, a fresh selection process would be undertaken.

Consequently, the Tribunal did not consider it necessary to proceed further with the matter and treated the original application

as infructuous. The submission of Mr. Bhardwaj, firstly, is that the Tribunal should have gone into the issue - whether any of the questions in the question paper were out of syllabus. He further submits that the process in question had been initiated in the year 2012 and culminated only in the year 2018. Due to the actions of the respondent, the petitioner would be put to serious prejudice in as much as some of them may have become over-age and would not be able to participate in the fresh process that may be undertaken.

So far as the first submission of Mr. Bhardwaj is concerned, we do not find any merit in the same. Though the Tribunal has proceeded on the basis that the examination process has been quashed, it appears that the respondents have taken the stand that all the 15 candidates failed in the examination. The eventual result is that all the vacancies in respect whereof the selection process was held, have remained unfilled and a fresh process would be undertaken. Thus, none of the petitioners are prejudiced in the sense that it would be open for them to compete in the fresh process that may be undertaken.

In our view, it was not necessary for the Tribunal to undertake an academic exercise to find out if any of the questions were out of syllabus. So far as the second submission of Mr. Bhardwaj is concerned, in case, any of the petitioners have indeed become over-age, in our view looking to the circumstances of the case, it would only be fair that they are granted age relaxation.

Mrs. Ahlawat points out that the claim of the petitioner that some of them have become over-age, may not be correct.

Limited to this aspect, we issue notice to the respondents. The respondents should file their reply within two weeks on the said aspect.

List on 14.11.2018.”

2. Today, from the affidavit filed by the Respondents, it is apparent that barring one person, i.e. Petitioner No. 4, all the other Petitioners are, in fact, not over age. As for Mr. Shyam Agarwal, Petitioner No. 4, he was already over age, even in 2012.

3. In that view of the matter, considering the limited scope of enquiry in terms of the above order that was to be undertaken, the Court finds that the very premise that the Petitioners are over age and therefore cannot participate in any future selection process ceases to exist. The Court sees no reason, therefore, to interfere.

4. The petition is dismissed. The pending applications are disposed of.

S.MURALIDHAR, J.

TALWANT SINGH, J.

JANUARY 22, 2020

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