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

% Judgment delivered on: 13.10.2022

+ **W.P.(C) 13223/2022**

AALMA Petitioner

versus

DELHI HIGH COURT Respondent

+ **W.P.(C) 14105/2022 & CM APPL. 43072/2022 & CM
APPL. 43128/2022**

EX SUB MANOJ KUMAR & ORS. Petitioners

versus

UNION OF INDIA & ANR. Respondents

Advocates who appeared in this case:

For the Petitioners: Mr. G.K. Pathak and Mr. M.A. Sudhakar, Advocates.

For the Respondents: Ms. Padmapriya, Advocate for DHC Administration.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioners impugn the *viva voce* test result for appointment for the post of Junior Judicial Assistant/Restorer (Group-C).

2. Petitioners were unsuccessful in qualifying for the appointment to the said posts on the basis of their *viva voce* result which was below the minimum qualifying marks as stipulated. The petitioners contend that the criteria for fixing the minimum qualifying marks in *viva voce* is perverse.

3. It is pointed out by learned counsel for the respondent that an identical challenge was raised by another candidate who was also unsuccessful based on the *viva voce* test result. Learned counsel submits that by judgment dated 26.09.2022 in *W.P. (C) No. 13881/2019* titled as '*Karan Singh Meena Vs. Registrar General, Delhi High Court*', a coordinate bench of this Court, after referring to the law laid-down by the Supreme Court, has held that after having participated in the selection process, a candidate cannot challenge the same after he has been declared unsuccessful.

4. It is noticed that the minimum qualifying marks prescribed for the category in which the petitioners had appeared was '11' and the petitioners have secured marks less than '11' and as such have been declared unsuccessful. Further, it may be noticed that the advertisement stipulated four stages through which the candidate had to pass prior to being considered for the post.

5. It is an admitted position that the petitioners have all qualified three stages, however, at the fourth stage they were unsuccessful

having scored below the stipulated minimum qualifying marks.

6. The facts and circumstances of the cases of petitioners are identical to the case of *Karan Singh Meena (Supra)*.

7. It is also an admitted position that none of the petitioners challenged the selection process prior to participating in the same and it is only after they were unsuccessful, they sought to challenge the same.

8. In view of the ratio laid-down in *Karan Singh Meena (Supra)* that after having participated in the selection process, the candidate cannot challenge same after he has been declared unsuccessful, we are of the view that the petitions filed by the petitioners would not be maintainable as they have only challenged the criteria after participating in the selection process and being declared unsuccessful. We find no reason to take a different view.

9. In view of the above, we find no merit in the petitions. The petitions are accordingly dismissed.

SANJEEV SACHDEVA, J

TUSHAR RAO GEDELA, J

OCTOBER 13, 2022

‘rs’