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

% Judgment delivered on: 20th October, 2022

+ **W.P.(C) 14875/2022 & CM. APPL. 45731-33/2022**

UNION OF INDIA AND ANR.

..... Petitioner

Versus

SANJAY KUMAR AND ORS.

... Respondents

Advocates who appeared in this case:

For the petitioners: Mr. Vijay Joshi, Mr. Gurjas Singh Narula
and Mr. Lalit Sharma, Advocates.

For the Respondents: Mr. K.P. Sundar Rao, Advocate.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

SANJEEV SACHDEVA, J (Oral)

1. Learned counsel for petitioner submits that on account of an inadvertent error, Annexure-17 that was not part of the Tribunal's record has been annexed with this petition without a formal application for taking on additional document. The statement is taken on record.

2. Issue notice. Notice is accepted by learned counsel appearing for respondents No.1 and 2. Let a digital copy of the entire paper book be furnished to him.

3. With the consent of the parties, the writ petition is taken for final disposal.

4. Petitioner, the Union of India has impugned order dated 26.04.2022, whereby the Original Application filed by respondents No.1 and 2 has been allowed and petitioners have been directed to issue offer of appointment to the said respondents for recruitment to the post of Health and Malaria Inspector, Grade-III.

5. Pursuant to advertisement dated 13.03.2010, respondents had applied for the aforesaid post. The minimum educational qualification for the said post of Health and Malaria Inspector, Grade-III prescribed by the advertisement was:-

“B.Sc. Chemistry plus (a) 1 year Diploma in Health Sanitary Inspector (OR) (b) 1 year National Trade Certificate (NTC) in Health/Sanitary Inspector awarded by National Council for Vocational Training, Ministry of Labour and Employment Govt. of India, New Delhi”

6. Contention of learned counsel for petitioners is that the Diploma of the respondents is from Vinayaka Missions University, Salem, Tamil Nadu by way of distance education and as such is not acceptable as satisfying the eligibility condition and furthermore, the

subject course was not a course which was recognized by the authorities and as such this is an unrecognized course though from a recognised University and as such the respondents did not satisfy the eligibility condition.

7. Learned counsel appearing for respondents No.1 and 2 submits that there is no bar on acceptance of a Diploma obtained by distance education for the eligibility condition and furthermore, the Diploma obtained by the respondents is from a recognized university and also a recognized course.

8. Perusal of the orders shows that the Tribunal has not examined the said aspect, as to whether the qualification of the respondents satisfies the minimum educational qualification prescribed by the subject advertisement. The Tribunal has allowed the Original Application merely on the ground that offer of appointment has been issued to other candidates, who have also obtained degrees from the said University. The contention, on the other hand, of the petitioner is that though the University was recognized but the subject course was not a recognized course and as such even if degrees from the same University have been accepted would not *ipso facto* amount to acceptance of validity of the subject Diploma of the respondents.

9. Since the Tribunal has granted relief to respondents solely on the ground that offer of appointment has been granted to other

candidates and directed issuance of offer of appointment without examining as to whether the objection of the petitioners i.e., diploma obtained by distance education cannot be accepted and the subject course not being a recognized course, the impugned order cannot be sustained and calls for a remit.

10. In view of the above, the impugned order is set aside. The matter is remitted to the Tribunal to examine the objections of the petitioner noticed hereinabove on merits and also examine *inter-alia* the contention of the respondents that their Diploma satisfies the eligibility condition as prescribed by the subject advertisement.

11. Keeping in view the fact that the subject post was advertised in the year 2010, we request the Tribunal to expedite the proceedings and endeavour to conclude the proceedings preferably within a period of four months.

12. It is clarified that this Court has neither considered, nor commented upon the merits of the contentions of either party. All rights and contentions of parties are reserved.

13. The parties shall appear before the Tribunal on 29.11.2022 for directions.

SANJEEV SACHDEVA, J.

OCTOBER 20, 2022/NA

TUSHAR RAO GEDELA, J.