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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: November 07, 2023

+ W.P.(C) 11279/2023

NAVEEN KUMAR SAINI

..... Petitioner

Through: Mr.Adarsh Kumar Tiwari, Mr.Vineet Pathak and Ms.Vartika Maurya, Advocates.

versus

DELHI DEVELOPMENT AUTHORITY
AND ANR.

..... Respondents

Through: Mr.Arun Birbal, Standing Counsel with Mr.Varun Gupta and Mr.Sanjay Singh, Advocates

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

1. The challenge in this writ petition is to an order dated July 11, 2023 passed by the Central Administrative Tribunal, Principal Bench, New Delhi ('Tribunal', for short) in O.A. 822/2020, whereby the Tribunal has dismissed the OA filed by the petitioner wherein paragraph 5.1 and 5.2 the following has been stated:

"5.1 In view of the above discussion and legal position, it is no more res integra that the applicant has no case as he himself



has failed to join the post offered to him within the stipulated period even after grant of extension of time on three occasions. Moreover, Respondent No.1/DDA was well within its right to operate the waitlist panel and offer appointment to the next candidate and accordingly Respondent No.1/DDA issued offer of appointment to respondent no.2 and he has already joined the post.

5.2 In entire conspectus of the facts of the case, we are of the considered opinion that the present OA fails being devoid of merit and the same is accordingly dismissed.”

2. The facts as noted in the present petition are that pursuant to an advertisement issued in the month of December, 2018 inviting online applications for recruitment to the various posts which includes the post of Naib Tehsildar, the petitioner, who belongs to OBC category, had applied for the same. He participated in the recruitment process and was placed at serial No.1 in the merit list. Pursuant thereto, respondent No.1/DDA had vide letter dated July 24, 2019 issued offer of appointment to the petitioner to the said post. He was medically examined and found fit to join the post.

3. It was his case before the Tribunal that as he had to appear in the competitive examinations conducted by UPSC, he sought extension of time for joining the post of Naib Tehsildar vide letter dated August 28, 2019 which was acceded to by DDA and he was allowed to join the post on or before December 01, 2019. It is a conceded case that the petitioner had further sought extension of time to join the post which was also granted by DDA till January 01, 2020. He again sought extension of time on medical grounds which request, according to him, was acceded to by DDA till February 06, 2020. However, on February 06, 2020 the petitioner sought



further extension on medical grounds followed by reminder dated February 21, 2020.

The case of the petitioner before the Tribunal was that he did not receive any response to his aforesaid letters dated February 06, 2020 and February 21, 2020. Noting the fact that the petitioner had not joined, the DDA vide letter dated March 18, 2020 had withdrawn the offer of appointment as given to the petitioner and had appointed the person next in the merit list to the said post. We have already reproduced the reasons for which the Tribunal has rejected the OA.

4. The submission made by learned counsel for the petitioner is primarily that before withdrawing the offer of appointment vide letter dated March 18, 2020, the respondents were required to give a show cause notice eliciting a reply from the petitioner knowing the reasons for his not joining the post of Naib Tehsildar.

5. We are not in agreement with the submission of learned counsel for the petitioner for the simple reason that pursuant to the offer of appointment given to him, the respondents on the asking of the petitioner had extended the time for joining the petitioner on three occasions and DDA had called upon the petitioner to join by February 06, 2020. Considering the petitioner did not join the said post on February 06, 2020 and made further request for extending the time which though not replied to but vide order dated March 18, 2020 they had withdrawn the offer of appointment. In so far as the plea of learned counsel for the petitioner that he is entitled to a show cause notice before withdrawing the offer of appointment, is concerned, the same is not appealing. In fact, on a specific query as to why the letter dated January 21, 2020 extending the period to join the post till February 06, 2020 has not been



annexed with the writ petition, the reply of the counsel is that inadvertently the same has not been annexed.

6. Be that as it may, the petitioner having been granted three opportunities, which itself must be construed that the respondents have complied with the principles of natural justice granting sufficient time to the petitioner to join the said post, the petitioner having not joined and the same having been offered to respondent No.2 who, we have been informed, has already joined the said post, we are of the view that the Tribunal is justified in rejecting the OA.

7. In so far as the reliance placed by the petitioner on the judgment of the Supreme Court in the case *Gajanan L. Pernekar v. State of Goa & Anr., (1999) 8 SCC 378* is concerned, in the said judgment the petitioner therein was promoted to the post of Head Master, which order was recalled and in that sense, the Supreme Court said that the said order could not have been recalled without complying principle of natural justice. The said case is clearly distinguishable as the present case is not a case of promotion but is a case of fresh appointment. That apart, in the case in hand, the next person in the merit list having been offered the appointment and had joined and the principle of natural justice can be dispensed with as third party rights have intervened. Moreover, the fact that the time to join the post has been extended three times, a further show cause notice was not required to be given.

8. That apart, as per the instructions issued by DoP&T, the offer of appointment can be extended by period of six months. Considering the fact that offer of appointment given to respondent No.2 was recalled on March 18, 2020 which is beyond a period of six months, in that sense, the



requirement of the OM has been fulfilled and as such no prejudice has been caused to the petitioner.

9. We are of the view in the facts of this case, the impugned order needs no interference. The petition is dismissed.

V. KAMESWAR RAO, J.

ANOOP KUMAR MENDIRATTA, J.

NOVEMBER 07, 2023/v