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

% *Date of Decision: October 10, 2023*

+ W.P.(C) 13251/2023

NEELAM MALIK

..... Petitioner

Through: Mr.Yudhvir Singh Chauhan and
Ms.Shivangi Shokeen, Advocates with
petitioner in person

versus

DSSSB AND ANR

..... Respondents

Through: Ms.Latika Chaudhary, Advocate

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J.(ORAL)

1. This petition challenges an order dated February 14, 2023 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter, referred to as the 'Tribunal') in OA No. 2171/2015 whereby the Tribunal has dismissed the OA filed by the petitioner herein by stating in paragraphs 4 to 7 as under:

“4. It is clear from the result that the applicant failed to clear Tier-I of the Examination inasmuch as she obtained 65.5 marks out of 198, whereas the minimum qualifying marks in Tier-I Examination is 79.2. Since qualifying Tier-I Examination is prerequisite to appear in Tier-II Examination and the applicant has failed to clear Tier-I Examination, there is no question of allowing her to appear in Tier-II Examination.



However, since the O.A. was pending, the candidate was provisionally allowed to appear in Tier-II Examination.

5. *Learned counsel for the applicant failed to make out a case or point out that the applicant qualifies to be eligible, as contended and recorded in the order dated 16.06.2015 inter alia to the effect that the respondents were to call candidates numbering 6 to 10 times of the vacancies and the applicant who has not qualified Tier-I Examination, could not be called for Tier-II Examination. He has also not been able to show or justify whether the last candidate in qualifying list, whose marks fell below the applicant, was allowed to participate in Tier-II Examination and was cleared as successful candidate.*

6. *The result of the applicant is returned in original to the learned counsel for the respondents.*

7. *In the circumstances, the present O.A. is devoid of merit and the same is accordingly dismissed. There shall be no order as to costs."*

2. The only submission made by Mr.Chauhan, learned counsel for the petitioner is that the ground on which the respondents have refused to allow the petitioner to sit in Tier- II Examination is that the petitioner has not qualified Tier-I Examination. According to him, the respondents have in their reply stated that the exam is qualifying in nature inasmuch as an unreserved candidate appearing in Tier- I Examination necessarily has to secure 40% of the marks to be eligible to appear in Tier -II Examination. He submits that this stipulation of 40% marks was not prescribed in the advertisement.

3. We are unable to agree with this plea of Mr. Chauhan for the reason that the advertisement at page 44 of the paperbook under the heading "Note"



at serial No.4 clearly states, “*The minimum qualifying marks for Preliminary Examination (Part-I) is 40% for General Category candidates and 30% for Reserved Category Candidates subject to maximum of 06-10(six to ten) times the number of advertised vacancies including bracketed candidates, if any, as per the availability of eligible candidates.*”

4. From the reply filed by the respondents before the Tribunal, it is clear that the petitioner had secured less than 40% marks in Tier -I Examination. That apart, it is also noted that the petitioner had secured, as against the cut off marks of 79.2, 65.5 marks out of 198 maximum marks. So, on both the counts, the petitioner was ineligible for appearing in Tier-II Examination.

5. We do not see any illegality in the order passed by the Tribunal. The Tribunal has rightly dismissed the OA. We accordingly dismiss this petition. No costs.

V. KAMESWAR RAO, J.

ANOOP KUMAR MENDIRATTA, J.

OCTOBER 10, 2023/v