



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

% *Date of decision: September 05, 2023*

(15) + W.P.(C) 6502/2017

SATENDER KUMAR PASWAN & ANR. Petitioners

Through: Dr. K.S. Chauhan, Sr. Adv.
with Mr. R.S.M. Kalky, Mr.
Ajit Kumar Ekka, Mr. S.P.
Singh, Mr. Abhishek Chauhan
and Mr. Ajit Kumar, Advs.

Versus

DELHI SUBORDINATE SERVICES
SELECTION BOARD AND ANR.

..... Respondents

Through: Mrs. Avnish Ahlawat, Standing
Counsel (GNCTD, Services)
with Mr. Nitesh Kumar Singh,
Mrs. Taniya Ahlawat,
Ms. Laavanya Kaushik, Ms. Aliza
Alam and Mr. Mohnish
Sehrawat, Advs.

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 petition is to an order dated February 22, 2017, passed by the Central Administrative Tribunal, Principal Bench, New Delhi in CP No. 638/2016 in OA 3797/2013, whereby the Tribunal has rejected the Contempt Petition.



2. The submission of Dr. K.S. Chauhan, learned Sr. Counsel appearing for the petitioner is that the Tribunal could not have dismissed the Contempt Petition when there is a violation of order passed by the Tribunal dated July 26, 2016 in the OA, wherein the Tribunal has in paragraphs 5 and 6, stated as under:

“5. During the course of the argument, it was fairly admitted by the learned counsel for the respondent’s that the caste of both the applicants herein are notified as Scheduled Caste under the Govt. of Delhi. In fact, both the applicants have now obtained the Scheduled Caste Certificate from Govt. of NCT.

6. In view of the aforesaid, we allow this OA and direct the respondents to process further the candidature of the applicants herein as Scheduled Caste candidates. In case they are found eligible for appointment, then they shall be appointee within a period of six weeks from the date of receipt of a certified copy of this order. The applicants also be entitled to consequential benefits of pay fixation and seniority. There shall be no order as to costs.”

3. According to him, the directions of the Tribunal were preptory and could not have been deviated and the respondents were required to give the appointments to the petitioners herein.

4. On the other hand, Mr. Nitesh Kumar Singh, learned counsel appearing for the respondents would justify the order by stating that the certificates submitted by the petitioners, who are admittedly from outside Delhi, could not have been considered for appointment to the post in New Delhi under the Scheduled Caste category, in view of the law laid down by the Supreme Court in ***Subhash Chandra v. DSSSB & Others, Civil Appeal No.***



5092/2009 and by this Court in ***Sarv Rural and Urban Welfare society v. Union of India W.P. (C) No. 507 of 2006.***

5. According to him, when the OA was pending, the judgment in the case of ***Deepak Kumar and Ors. v. District and Sessions Judge Delhi and Ors., W.P.(C) 5390/2010*** and connected petitions were decided by the full bench of this Court and it was held that, an outsider Scheduled Caste/Schedule Tribe shall be eligible for appointment in Delhi. It is in this situation / change in law, the OA was decided.

6. He states that the judgment in the case of ***Deepak Kumar and Ors. (supra)*** can only have a prospective effect, as the past cases where appointments have been denied, could not be revived. If a retrospective operation/interpretation is given to the judgment, it will open Pandora's Box for similarly placed candidates, shall seek similar benefit.

7. He states that, they rightly denied the appointment to the petitioner, in view of the law laid down by the Supreme Court in ***Subhash Chandra (supra)*** and by this court in ***Sarv Rural and Urban Welfare Society (supra)***, which were prevailing at the time when the petitioners' application for appointment was pending for scrutiny before the respondents.

8. Having noted the submissions made by the learned counsel for the parties, we are of the view that the scope of Contempt Petition is very limited, inasmuch as, only if there is a wilfull violation of the order passed by the Tribunal.



9. We may state here that the Tribunal in its order dated July 26, 2016 passed in the OA has directed the respondents herein to further process the candidature of the petitioners and in case they are found eligible for appointment, they shall be appointed. The case of the respondents is that, on the date of eligibility i.e., recruitment year, the respondents in compliance with the law laid down in *Subhash Chandra (supra)* and *Sarv Rural and Urban Welfare society* denied the appointment to the petitioners. In other words, the judgment of this court in *Deepak Kumar (supra)* on which reliance was placed was decided at a later stage and has to be given a prospective effect.

10. In view of the facts and circumstances placed before this court, we are of the view that there is some justification for the respondents to not to give appointments to the petitioners and as such there is no willful violation of order passed by the Tribunal in the OA. Moreover, as contended by Mr. N.K. Singh that as the appointment of the petitioners relates back to the year 2009-2010 and 13 years have gone by, we are of the view it is too late in the day for this Court to consider the prayer made in this petition by setting aside the impugned order in CP 638/2016, and direct the grant of appointment to the petitioners. The petition is dismissed.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

SEPTEMBER 05, 2023/jg