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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 6173/2022

DR. MUNENDRA KUMAR & ORS.

..... Petitioner

Through: Mr.Sourabh Ahuja & Mr.Deepak
Hasbir, Advs.

Versus

SECRETARY, DEPARTMENT OF TRAINING AND TECHNICAL
EDUCATION AND ANR.

..... Respondent

Through: Mrs. Avnish Ahlawat, SC, GNCTD
for R-1 with Mr. B.S. Rawat, CI, DTTE.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

14.05.2024

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1. The present petition under Articles 226 & 227 of the Constitution of India seeks to assail the order dated 07.11.2019 passed by the learned Central Administrative Tribunal (Tribunal) in M.A. No. 2834/2018 in Original Application (O.A.) No. 3609/2013 which was filed by the petitioner to seek execution of the Tribunal's order dated 17.09.2015.
2. Vide the impugned order, the learned Tribunal has dismissed the application filed by the petitioners/applicants wherein they had assailed the order dated 25.07.2016 passed by the respondents and had sought directions to the respondents to count their past service rendered in diploma level institutions towards their total service while considering them for grant of selection grade scale.
3. While dismissing the M.A., the learned Tribunal has observed that entertaining the application would amount to expanding the scope of adjudication of the execution application.
4. Having heard the learned counsel for the parties at length, even



though we are in agreement with the learned Tribunal that the reliefs sought by the petitioners could not be examined by way of execution application, we *prima facie* find that the stand taken by the respondents to deprive the petitioners of their entitlement to count their past service in a diploma level institution while considering them for grant of selection grade scale was not sustainable and not borne out from the record.

5. We, therefore, dispose of the petition as not pressed with liberty to the petitioners to file a fresh O.A. to assail the order dated 25.07.2016 passed by the respondents rejecting their prayer for counting their past service in diploma level institution for consideration of selection grade scale. We further make it clear that the observations made in the impugned order will not come in the way of adjudication of the petitioners' claim by the learned Tribunal which will be decided on merits without being influenced by the observations made in the impugned order dated 07.11.2019. Further, in case in the aforesaid terms, a fresh O.A. is filed by the petitioners within four weeks', the same will be considered on merits by the learned Tribunal and not rejected on the ground of delay.

REKHA PALLI, J

SAURABH BANERJEE, J

MAY 14, 2024
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