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

Date of decision: 10.09.2025

+ W.P.(C) 13876/2025 & CM APPL. 56858/2025
GOVT OF NCT OF DELHI AND ORSPetitioners
Through: Mrs.Avnish Ahlwat, SC,
Mr.Nitesh Kumar Singh, Adv.
versus
RUCHI AND ANRRespondents
Through: Nemo

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE MADHU JAIN

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed challenging the Order dated 13.11.2024 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. No.128/2019, titled ***Ruchi v. Govt. of NCT of Delhi & Ors.***, whereby the said O.A. filed by the respondent no. 1 herein was allowed with the following directions:

"5. Accordingly, we direct the respondents to issue an offer of appointment for the post of Lab Technician Group III under UR Category to the applicant, subject to her fulfilling the eligibility terms and conditions of the advertisement. The applicant's seniority shall also be re-fixed accordingly. The applicant having qualified for a higher post is entitled to get benefits as well. Appropriate orders shall be issued within a period of two months from the date of receipt of a certified copy of this order."



2. To give a brief background of facts in which the present petition arise, the petitioners had issued an Advertisement No.01/14 for filling up various posts, including 29 posts of Lab. Technician (Group-III) under Post Code 34/14 and 204 posts of Lab Assistant (Group-IV) under Post Code 30/14. The respondent no .1 applied under the UR category for both the posts.
3. A combined written examination was held for the two posts, and the respondent no.1 appeared for both.
4. Based on the marks obtained by the respondent no.1 in the said examination, she was appointed as Lab Assistant (Group-IV) and not as Lab. Technician (Group-III), since she was lower in merit. Subsequently, on 25.10.2017, the dossier of one selected candidate for the post of Lab Technician (Group-III) was returned, and the respondent no.2, who had scored marks lesser than the respondent no.1, was appointed to the post of Lab. Technician (Group-III) from the panel against the said vacancy, on 17.12.2018.
5. Aggrieved thereby, the respondent no.1 filed the above O.A., contending that since she had scored marks higher than the respondent no.2, the post of Lab Technician (Group-III) ought to have been offered to her.
6. The learned Tribunal, *vide* its Impugned Order, accepted the plea of the respondent no.1. However, at the same time, taking note of the fact that the respondent no.2 had worked with the petitioners for almost six years, did not deem it appropriate to set aside his selection.
7. The limited grievance of the petitioners in the present petition is that, as only 29 post of Lab Technician (Group-III) were advertised by



the petitioners *vide* Advertisement No. 01/2014 and all stood filled, the learned Tribunal ought to have cancelled the appointment of the respondent no.2 while directing the petitioners to appoint the respondent no.1.

8. We are not impressed with the above submission of the learned counsel for the petitioners.

9. In the present case, the entire controversy has arisen due to the acts of the petitioners themselves, inasmuch as, instead of offering the post to the respondent no.1, who had admittedly scored higher marks than the respondent no.2, the same was offered to the respondent no.2. The respondent no.1 immediately approached the learned Tribunal by way of the above O.A. and has rightly been granted relief. At the same time, during the pendency of the said O.A., the respondent no.2 has worked with the petitioners. It is not as if the respondent no.2 had any role to play in his selection over the respondent no.1.

10. In these peculiar facts, even if the petitioners are required to create a supernumerary post to accommodate the respondent no.1 to the post of Lab Technician (Group-III), they would be liable to do so.

11. We therefore, find no infirmity in the Impugned Order. The petition is, accordingly, dismissed. The pending application also stands disposed of as infructuous.

NAVIN CHAWLA, J

MADHU JAIN, J

SEPTEMBER 10, 2025/Arya/DG