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

+ **Date of Decision: 29.08.2017**

% **WP(C) 6086/2017**

UNION OF INDIA AND ANR Petitioners

Through: Mr. Ruchir Mishra, Advocate

versus

AVINASH CHANDRA SINGH AND ORS. Respondent

Through: Mr. Ajesh Luthra with Mr. Jatin Parashar, Advocates for caveator.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

VIPIN SANGHI, J. (ORAL)

1. The petitioner has preferred the present writ petition to assail the order dated 21.02.2017 passed by the Central Administrative Tribunal in three Original Applications, including, O.A. No. 263/2017, preferred by the respondents. By the said common order, the Tribunal has allowed the Original Applications preferred by the applicants. The petitioner – Union of India, had also filed WP(C) No. 4829/2017 titled, '*Union of India & Ors. Vs. Sumit Kumar*' to assail the same common order passed by the Tribunal in O.A. No. 215/2017. This Court has, vide order dated 10.08.2017,

dismissed the said writ petition preferred by the petitioners and affirmed the order passed by the Tribunal. In the case of all the applicants before the Tribunal (in the three OAs), their candidature had been rejected by the petitioner on the ground that in the cover/opening-sheet of the answer books submitted by them, they had omitted to either mention the relevant subject, or failed to tick mark the correct box relating to the subject and/or medium. The petitioner claimed that the said omissions were fatal and, in that regard, placed reliance on the instructions contained in the cover/opening sheet itself, which stated that the failure on the part of the candidate to do the needful will lead to award of zero marks.

2. In the case of *Sumit Kumar* (supra), the omission committed by the candidate was that he had not tick marked the medium in which the examination was taken i.e. Hindi or English. It was held by the Tribunal, as well as by this Court, that the said omission was inconsequential and could not afford a valid justification for not evaluating the answer script of the candidate and awarding zero marks to him. The Tribunal had noticed, and we too have considered, in the course of our decision the jurisprudence on the subject.

3. We rely upon our decision in *Sumit Kumar* (supra), and for the sake of brevity, we are not elaborating either the submissions advanced by learned counsels, or our decision thereon in this order.

4. The facts of the present case are that the respondents were candidates in the Junior Engineers (Civil, Mechanical, Electrical, Quantity Surveying & Contract) Examination, 2015. The respondents, who were required to fill in

their particulars on the opening sheet in their answer book, are stated to have committed lapses and, on that account, they have been awarded 'zero' marks. The respondents either did not tick-mark the four columns against "Subject"-wherein they had to tick-mark against "Paper No. II", "Civil and Structural", "Electrical", "Mechanical" or, that they had not indicated the medium i.e. Hindi or English in which the examination had been taken, by tick marking the relevant entry. However, there is no dispute that the candidates had indicated the "Subject" in the "Name of Examination" column in their own handwriting against the space provided therefor. This Court has held in WP(C) No. 5948/2017, titled, "**Union of India & Ors. Vs. Nitish Kumar**" decided on 28.08.2017 that the omission to tick-mark the boxes in respect of "Subject" was inconsequential inasmuch, as, the candidate had provided all the particulars against the column, "Name of Examination" and "Subject" in his own hand-writing. There is no dispute that in the case of the respondents as well, the position is no different.

5. So far as the aspect of medium is concerned, this Court has already taken a view in **Sumit Kumar** (supra) that the lapse on the part of the candidate in failing to mention the medium by tick marking the relevant box is an inconsequential omission, and the same would not entitle the petitioners not to evaluate the answer sheet and award 'zero' marks to the candidate.

6. In respect of respondent No.13, her answer sheet was not evaluated and she was awarded 'zero' marks on account of the fact that she had incorrectly mentioned the ticket number as "300314" instead of "3000314" in her answer book. A photocopy of the opening sheet of the answer book

of the respondent No. 13 has been placed on record. It shows that the wrongly mentioned ticket No. “300314” has been encircled and cross marked, and the correct ticket number has also been noted by in hand as “3000314”.

7. After taking instructions, Mr. Mishra, counsel for the petitioners submits that the said encircling and the writing of the correct ticket number was done by the officers of the petitioners while scrutinizing the answer sheet of respondent No.13. Mr. Mishra also submits that the ticket number has relevance only in relation to the sitting plan of the candidates in the examination hall, and it has no bearing whatsoever in the matter of evaluation of the answer sheet of the candidates. The ticket number is not utilized for the purpose of identifying the answer book with a particular candidate.

8. In relation to respondent No. 62, he had, similarly, incorrectly mentioned his ticket number as “301033” instead of “3001033”, apart from not tick-marking the relevant box against “*Subject*”, while he too had entered the “*Name of Examination*” and “*Subject*” in his own hand writing in the provided space.

9. In *Union of India and Anr. Vs. Nitish Kumar* WP(C) 5948/2017 decided on 28.08.2017, we have held that the omission on the part of the candidate in not tick-marking the boxes against “*Subject*” is inconsequential, since the said information has been provided by the candidate at the relevant place against the columns “*Name of Examination*” and “*Subject*”. Thus, the cases of all the respondents are squarely covered by our two decisions in

Sumit Kumar (supra) and *Nitish Kumar* (supra), except the cases of respondent Nos. 13 and 62.

10. In the case of the said two respondents, there is slight distinction inasmuch, as, the said candidates had mentioned the ticket number incorrectly in the answer book as taken note of hereinabove. We have already noticed that the said ticket number is of no relevance to the process of evaluation of the answer script and it also has no bearing for the purpose of identifying the answer with the particular candidate. In fact, the opening sheet of the answer book of respondent No. 13 shows that the mistake in the writing of the ticket number by respondent No. 13 was corrected by the personnel of the petitioner itself. This shows that the petitioner was well aware of the correct ticket number which should have been filled in the opening sheet. Despite this being the position, the petitioner did not evaluate the answer scripts of respondent Nos. 13 and 62, which, in our view, is wholly unjustified. The wrong mention of the ticket number in the opening sheet of the answer book is as inconsequential, if not more, as the failure of the some of the candidates in not tick-marking the medium in which the answer scripts was answered.

11. We are, thus, of the view-for the reasons contained in our decision dated 10.08.2017 rendered in Writ Petition (C) No. 4829/2017, titled, “*Union of India & Ors. Vs. Sumit Kumar*” and WP(C) No. 5948/2017, titled, “*Union of India & Ors. Vs. Nitish Kumar*” that the decision of the Tribunal in the Original Application of the respondent i.e. O.A. No. 263/2017 is unexceptionable, and does not call for interference.

12. The writ petition is, accordingly, dismissed leaving the parties to bear their respective costs.

VIPIN SANGHI, J

REKHA PALLI, J

August 29, 2017

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