

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

% Judgment delivered on: 30.04.2012

+ **W.P.(C) 4700/2011**

**SHYAM SUNDER**

... Petitioner

versus

**UNION OF INDIA & OTHERS**

... Respondents

AND

+ **W.P.(C) 6699/2011**

**ARUN KUMAR**

... Petitioner

versus

**UNION OF INDIA & OTHERS**

... Respondents

### **Advocates who appeared in this case:**

For the Petitioners : Ms Jyoti Singh, Sr Advocate with Mr N. N. S. Rana and  
Ms Saahila Lamba

For the Respondents : Mr Abhishek Yadav

### **CORAM:-**

**HON'BLE MR JUSTICE BADAR DURREZ AHMED**

**HON'BLE MR JUSTICE V.K. JAIN**

### **JUDGMENT**

#### **BADAR DURREZ AHMED, J (ORAL)**

1. These writ petitions are taken up together as they arise out of the common order passed by the Central Administrative Tribunal, Principal Bench, New Delhi, dated 04.01.2011 in OA 3546 and 3547, both of 2009.

2. Both the OAs were dismissed by the Tribunal by virtue of the impugned order purely on the ground of limitation. The learned counsel for the petitioners drew our attention to paragraph 7 of the impugned order which reads as under:-

“7. We have to consider whether the preliminary objection of the respondents that these applications are barred by limitation is valid or not, and whether the judgment in Ravinder Kumar Negi’s case (supra) is applicable or not? It is seen that Sh. Ravinder Kumar Negi had filed OA-1817/2005 claiming that he should be allowed to appear in the selection test as candidates three times the number of vacancies as required under paragraph 215 of Indian Railway Establishment Manual Volume-I had not been called. Pursuant to the interim direction of the Tribunal, he was allowed to appear in the test; later on, it was found that he had scored 59.95 marks in the aggregate against the bench mark of 60. He challenged the results immediately by filing OA No. 2693/2009 in which he claimed that being the junior-most his seniority marking should have been as per the provisions of IREM. His prayer was allowed; the respondents implemented the directions and recalculated the marks by awarding 5 marks (2 marks extra) to him.”

(underlining added)

3. In the context of the said paragraph 7, she submitted that while in Negi’s case, the Tribunal felt that Negi had challenged the results ‘immediately’ by filing an OA 2693/2009, the expression ‘immediately’, according to her, would, if applicable in Negi’s case, would also apply to the present petitioners. This is so because, according to her, the results in

the case of Negi were declared on 04.12.2006 and the OA in which he got the relief in the second round, was filed in 2009, the OA being OA 2693/2009. The petitioners also filed their OAs in 2009. Thus, what was regarded as 'immediate' in respect of Negi's case ought to have been regarded as 'immediate' in the case of the petitioners also and consequently, the petitioners' Original Application ought not to have been thrown out by the Tribunal on the point of limitation alone.

4. We have heard the learned counsel for the parties and we see merit in the contention raised by the learned counsel for the petitioners in the backdrop of what has been observed by the Tribunal in paragraph 7 of the impugned judgment which we have extracted above. Consequently, we feel that the matter ought to be considered afresh by the Tribunal in the light of the fact that in Negi's case the results were declared in 2006 and the Original Application was filed by him sometime in 2009. The only difference being that in the case of the petitioners, the result was declared on 30.12.2005 and they had filed the Original Applications in 2009.

5. The impugned order is set aside and the matter is remitted to the Tribunal to consider the original applications afresh in the light of the

observations made above. In the first instance, the parties shall appear before the Central Administrative Tribunal on 07.05.2012. The writ petitions stand disposed of accordingly.

**BADAR DURREZ AHMED, J**

**V.K. JAIN, J**

**APRIL 30, 2012**  
**SR**