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

+ W.P.(C) 7025/2011 & CM 16069/2011 (stay)

HARINDRA KUMAR Petitioner
Through Mr.R.K.Saini, Advocate with
Mr.Vikram Saini, Advocate

versus

LOK SABHA SECRETARIAT AND ORS Respondent
Through Ms.Sana Ansari, Advocate for
Ms.Zubeda Begum, Advocate

AND

+ W.P.(C) 7241/2011 & CM 16459/2011 (stay)

HOSHIYAR SINGH Petitioner
Through Mr.R.K.Saini, Advocate with
Mr.Vikram Saini, Advocate

versus

LOK SABHA SECRETARIAT AND ORS Respondent
Through Ms.Sana Ansari, Advocate for
Ms.Zubeda Begum, Advocate

AND

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+ W.P.(C) 8355/2011 & CM 18891/2011 (stay)

SUNIL KUMAR Petitioner
Through Mr.S.Mukjerjee and Mr.Arun
Khatri, Advocates.
versus

LOK SABHA SECRETARIAT AND ORS Respondent
Through Ms.Sana Ansari, Advocate for
Ms.Zubeda Begum, Advocate

AND

+ W.P.(C) 8356/2011 & CM 18893/2011 (stay)

MANOJ KUMAR Petitioner
Through Mr.S.Mukjerjee and Mr.Arun
Khatri, Advocates.

versus

LOK SABHA SECRETARIAT AND ORS Respondent
Through Ms.Sana Ansari, Advocate for
Ms.Zubeda Begum, Advocate

AND

+ W.P.(C) 8357/2011 & CM 18895/2011 (stay)

KUNWAR DIGVIJAY SINGH TOMAR Petitioner
Through Mr.S.Mukjerjee and Mr.Arun
Khatri, Advocates.

versus

LOK SABHA SECRETARIAT AND ORS Respondent
Through Ms.Sana Ansari, Advocate for
Ms.Zubeda Begum, Advocate

CORAM:
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

% **ORDER**
29.02.2012

These Petitions raise a common question of law, which according to the Petitioner is covered by the decision of a Division Bench of this Court dated 29.11.2011 in LPA No.839/2011 titled Rajya Sabha Secretariat and Others versus Subhash Baloda and Others. The facts which are not disputed are that sometime in the year 2009 the Respondent had issued an Advertisement bearing No.4/2009 inviting applications from eligible candidates for various posts in Lok Sabha & Rajya Sabha Secretariats, which at serial No.5 included 37 posts of Security Assistant Grade II in Lok Sabha Secretariat and 19 in Rajya Sabha Secretariat. The dispute that has arisen between the parties relates to the marks for the personal interview. According to the Respondents, the personal interview consisted of 25 marks which were bifurcated as follows:-

- | | |
|--|---------|
| "a) Dress, manners and appearance | 6 marks |
| b) Behaviour in communication
(whether courteous and disciplined) | 6 marks |
| c) General awareness and knowledge
of duties involved in Security Service | 6 marks |

d) Skill and Extra-curricular activities 5 marks

I.NCC C-Certificate 5 marks

Or

II Sports

International level/national level 5 marks

University Level 4 marks

e) Certificate in computer operations 2 marks"

The Petitioners are aggrieved that the evaluation sheets given to the Interviewers for evaluating each of the candidate there were only three columns and the first was for "Dress, manners and appearance" 6 marks; the second was for "behavior and communication (whether courteous and disciplined) 6 marks"; and third was for "General awareness and knowledge of duties involved in security service" 6 marks".

Counsel for the Petitioner submits that each of the candidate was evaluated by the Interview Board only against the three criterias which carried a total of 18 marks. It is submitted that the personal interview, therefore, covered only three parameters. It is seen that 7 marks out of the 25 marks comprised 5 marks for NCC C-Certificate/Sports and 2 marks for computer operations. Counsel

for the Petitioner submitted that for allocating the 7 marks the interview was of no relevance and that ultimately the candidate had to simply provide a Certificate which was to be checked up by the Clerk at the place where the interview was held and marked accordingly. According to Counsel for the Petitioner, therefore, the marks component in the interview was reduced from 25 marks to 18 marks.

As aforesaid, Counsel for the Petitioner has submitted that the issues raised in the Writ Petitions are no longer res-integra and are covered by the aforesaid decision of the Division Bench in Rajya Sabha Secretariat (supra). In that case on similar facts the Division Bench has held that, the decision of the Single Judge impugned therein, was correct and justified in reaching the conclusion that the marks prescribed for NCC/Sports and for Certificate in Computer Operations could not be considered while computing the 50% (or 45% or 40% as the case may be) eligibility in the interview. The Division Bench held that what was not part of the interview conducted by the interview board could not form part of marks allocated to those interviewed. The Division Bench further agreed with the submission of the Counsel

appearing for the Appellant, Rajya Sabha, that the principle laid down on the eligibility marks for interview to be calculated out of 18 marks, should be complied across the Board i.e., to all those who had participated in the selection process. In other words, the Division Bench held that all those who had been part of the selection process and who had not submitted NCC/Sports Certificate or Certificate in Computer Operations would be assessed on the basis of a total of 18 marks and not 25 marks allocated for the personal interview.

In the facts and circumstances of the case, the petitions filed by the petitioners who had participated in the personal interview are decided accordingly. The eligibility marks for interview are to be assessed out of a total of 18 marks only and not out of a total of 25 marks, provided for in the personal interview.

In the circumstances, the petitions are allowed with a direction to the Respondents *viz.-a-viz.* each of the petitioners, to ascertain if each of them has secured a minimum qualifying percentage marks in the interview as prescribed for their respective categories (i.e. 50% for general category, 45 % for OBC and 40 % for SC and ST) *viz-a-viz* the three sub-categories against

which they have been assessed for 18 marks. This exercise be completed within a period of 8 weeks from today.

Counsel for the Respondent has, at this stage, pointed out that the department has preferred an SLP against the order aforesaid of the Division Bench of this Court. However, on being asked a direct question as to whether the Supreme Court has stayed the operation of the impugned Order it has been answered in the negative.

The Writ Petitions are allowed in the above terms, with no order as to costs.

[Handwritten signature]

SIDDHARTH MRIDUL, J

FEBRUARY 29, 2012
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WP A/O

From case 3332/12 Explaining