

\$~24 (2021)

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

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Date of decision: 30.07.2021

+ **W.P.(C) 7352/2021**

DR BIPIN BATRA

..... Petitioner

Through: Mr. M. Dutta, Advocate.

versus

NATIONAL BOARD OF EXAMINATIONS

..... Respondent

Through: Mr. Neeraj Kishan Kaul, Sr. Advocate and Mr. A.K Behera, Sr. Advocate with Mr. Kirtiman Singh, Mr. Waize Ali Noor, Ms. Namisha Chaddha, and Mr. Taha Yasin, Advocates.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

RAJIV SHAKDHER, J.: (ORAL)

[Court hearing convened via video-conferencing on account of COVID-19]

CM APPL. 23192/2021

1. Allowed, subject to just exceptions.

W.P.(C) 7352/2021 and CM APPL. 23191/2021 [Application filed on behalf of the petitioner seeking exemption from filing a copy of the impugned order dated 28.07.2021 and attested affidavits in support of the petition]

2. The principal grievance of the petitioner before us is that, after the Central Administrative Tribunal (in short 'the Tribunal') had reserved orders in O.A./3346/2019 on 27.07.2021, the matter was put back on board, based on a mention being made, on 28.07.2021, by the Advocate for the Union of

India.

2.1. Mr. M. Dutta, who appears for the petitioner, informs us that the aforementioned O.A. is now listed for hearing before the concerned Bench of the Tribunal on 13.08.2021.

2.2. It would be relevant to note that, Mr. Dutta has submitted that the aforesaid procedure is contrary to the judgements of the Supreme Court rendered in *Arjun Singh v. Mohindra Kumar & Ors.*, AIR 1964 SC 993, and *Bagai Construction v. Gupta Building Material Store* (2013) 14 SCC 1

3. On the other hand, Mr. Neeraj Kishan Kaul, learned senior counsel, who appears on behalf of the respondent, says that, it is not as if the concerned Bench of Tribunal did not have the leeway to put the matter back on board, if the circumstances so demanded. In support of his contention, Mr. Kaul has referred to a judgement of the Supreme Court rendered in *K.K. Velusamy vs. N. Palanisamy* (2011) 11 SCC 275.

3.1. Furthermore, Mr. Kaul also contends that the Union of India has not been made a party to the present proceedings.

4. Having heard the learned counsel for the parties, we are of the view that, since the aforementioned original application is listed before the Tribunal on 13.08.2021, the concerned bench of the Tribunal should hear the parties involved, inter alia, on the following issues:

- (i) Whether, after having reserved the matter, for orders, it could reopen the matter and place it for hearing?
- (ii) If the answer to issue no. (i) is in the affirmative, what were circumstances that impelled the Tribunal to do so?

5. We are told by Mr. Dutta that, he has not been served with a copy of the impleadment application, filed by the Union of India before the Tribunal,

up until now.

5.1. The Tribunal is requested to deal with the aforesaid issue as well, as it is tied in, with the issues referred to in paragraph 4 above.

6. We may also note, we are handicapped, in a sense that, we don't have, before us, a copy of the order dated 28.07.2021, passed by the concerned bench of the Tribunal. Mr. Dutta has only shown us the status of the case, which, perhaps, emerges on the website of the Tribunal, in view of the order passed on 28.07.2021.

7. Furthermore, the above-captioned application [i.e. CM Appl. 23191/2021], filed to seek exemption from placing on record, attested affidavits, is disposed of, with a direction, that for the purposes of good order and record, although the decision in the petition has been rendered, the petitioner will place on record duly attested affidavits, within ten days of receipt of a copy of this judgement.

8. The writ petition and pending application are, accordingly, disposed of. The case papers shall be consigned to the record.

RAJIV SHAKDHER, J

TALWANT SINGH, J

JULY 30, 2021

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[Click here to check corrigendum, if any](#)