

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

+ **W.P. (C.) No.162/2010**

% **Date of Decision: 12.01.2010**

Sh.R.S.Khati ..... Petitioner  
Through Mr.M.K.Bhardwaj, Advocate.

Versus

Union of India & Ors ..... Respondents  
Through Mr.L.K.Garg, Advocate for the  
respondent Nos.1 to 3.

**CORAM:**

**HON'BLE MR. JUSTICE ANIL KUMAR**

**HON'BLE MR. JUSTICE MOOL CHAND GARG**

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|----|---|-----|
| 1. | Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the reporter or not?                                | NO  |
| 3. | Whether the judgment should be reported in the Digest?                | NO  |

**ANIL KUMAR, J.**

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The petitioner challenges the order dated 8<sup>th</sup> September, 2009 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in O.A No.2185/2009, titled Sh.R.S.Khati v. Union of India and Ors dismissing his petition claiming that respondent No.4 is not entitled for selection as he had not scored 50% marks in each paper for promotion to postal service Group B in the limited departmental competitive examination conducted for the period 2003-2006.

The plea of the petitioner is that he had scored more than 50% marks in each paper and more than 50% in aggregate also, whereas the respondent No.4 had not obtained 50% marks in each paper, therefore, the respondent No.4 is not entitled for promotion to the postal service Group B.

This, however, had not been denied that he has secured only 221 marks whereas the respondent No.4 has secured overall 229 marks.

Though by order dated 5<sup>th</sup> November, 1997, the respondent No.1 had held that condition of securing 50% marks in each paper and 50% marks in aggregate would apply to all candidates appearing in limited departmental competitive examination, including the candidates belonging to the Scheduled Castes/Scheduled Tribes, however, later on relaxation was given to Scheduled Castes/Scheduled Tribes candidates modifying the minimum marks in each paper to 40% marks in place of 50% marks.

The plea of the petitioner is that relaxation from minimum 50% marks in each paper to minimum 40% marks in each paper could be applied only in case no candidate in the ST category had secured minimum 50% marks in each paper.

The Tribunal has repelled the contention of the petitioner relying on Article 335 of the Constitution of India and a circular dated 26<sup>th</sup> February, 2001 issued by Department of Post holding that the relaxed standard for Scheduled Castes/Scheduled Tribes candidate appearing in Group B examination is restored in pursuance to the Department of Personnel & Training, O.M No.36012/23/96-Estt.(Res.) dated 3<sup>rd</sup> October, 2000.

The plea of the petitioner that relaxation of minimum of 40% marks in each paper could be given if there was no Scheduled Tribe candidates with minimum marks of 50% in each paper is not borne out from the circular dated 26<sup>th</sup> February, 2001 and the O.M dated 3<sup>rd</sup> October, 2000. The respondent No.4 has secured more than 40% marks in each paper and his aggregate marks are 229 which are more than the aggregate marks of 221 scored by the petitioner. The respondent No.4 also fulfils the condition of minimum 40% marks in each paper and, therefore, it cannot be contended successfully by the petitioner that respondent No.4 is not eligible for promotion.

In the circumstances, the petitioner cannot fault the decision of the Tribunal dated 8<sup>th</sup> September, 2009 on any of the grounds raised in the petition. There is no illegality in the order of the Tribunal so as to entail any interference by this Court.

The writ petition in the facts and circumstances is without any merit and it is, therefore, dismissed.

**ANIL KUMAR, J.**

**JANUARY 12, 2010**  
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**MOOL CHAND GARG, J.**