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

+ W.P.(C) 14693/2021

DR ABID HUSSAIN & ORS.

..... Petitioners

Through: Mr. Javed Ahmad and Ms. Aakriti  
Aditya, Advocates.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Manish Mohan, CGSC for R-1.  
Mr. Hooda, Advocate, Sr. Advocate  
with Mr. Arun Sanwal and Mr.  
Shaurya Lamba and Mr. Akshit  
Gupta, Advocates for R-2 and R-3.

**CORAM:**

**HON'BLE MS. JUSTICE REKHA PALLI**

**HON'BLE MR. JUSTICE RAJNISH BHATNAGAR**

**ORDER**

**21.02.2024**

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1. The present writ petition under Article 226 and 227 of the Constitution of India seeks to assail the order dated 27.07.2021 passed by the learned Central Administrative Tribunal in O.A.1390/2021. Vide the impugned order, the learned Tribunal has rejected the petitioners' prayer wherein they had sought re-engagement in service along with regularization of their services.

2. Learned counsel for the petitioners submits that an earlier O.A was filed by the petitioners being O.A. 509/2015 wherein the learned Tribunal vide its order dated 05.05.2017 had directed the respondents to re-engage the



petitioners in their new establishments/units, subject to them fulfilling the eligibility condition. He submits that since the relief of regularization was not granted to them, the petitioners had approached this Court by way of W.P.(C) 10093/2017. While the said writ petition was pending consideration, the respondents issued a communication dated 02.10.2020 thereby directing the petitioners to appear in the written test for being considered for re-engagement on the post on which they had been continuously working for the last more than 15 years. He submits that even though this fact was brought to the notice of this Court by way of an application being CM No.26096/2020, this Court after hearing the matter at length, had disposed of the writ petition by directing the respondents to comply with the directions issued by the Tribunal in para 8.2.3 of its order dated 05.05.2017.

3. The respondents, however, did not re-engage the petitioners despite their claim that they fulfilled all the eligibility conditions. The petitioners therefore filed a Review Petition No.185/2020 before this Court, which was withdrawn with liberty to initiate appropriate proceedings in accordance with law. It is in these circumstances that the petitioners approached the learned Tribunal by way of O.A No. 1390/2021, which has been rejected vide the impugned order.

4. The sole submission of learned counsel for the petitioners is that the directions issued by this Court on 16.10.2020, whereunder the respondents were directed to comply with the directions issued by the Tribunal in para 8.2.3 of its order dated 05.05.2017, has attained finality and therefore, the respondents could not be now permitted to take any contrary stand or subject the petitioners to appear in any further test or interview, except for testing



their eligibility criteria.

5. On the other hand, Mr. Hooda, learned senior counsel for the respondents seeks to support the impugned order by contending that the learned Tribunal has rightly rejected the petitioners' claim, as this aspect of the petitioners being subjected to a written test, was already considered by this Court while disposing of the W.P(C) 10093/2017 as also the Review Petition No. 185/2020.

6. Having perused the orders passed on 16.10.2020 in W.P(C) 10093/2017 and in Review Petition No. 185/2020 on 05.02.2021, we are not at all impressed by this plea of the respondents. We are of the considered view that in the light of the order passed on 16.10.2020, the respondents continued to remain bound by the directions issued by the learned Tribunal on 05.05.2017. In fact, we are of the *prima facie* view that not only has the Tribunal erred in rejecting the petitioners' claim for being re-engaged subject to their meeting eligibility conditions, but even otherwise the respondents are trying to overreach the orders passed by this Court and are totally misconstruing the orders passed by this Court.

7. At this stage, learned senior counsel for the respondents prays for and is granted two weeks' time to obtain instructions.

8. List on 14.03.2024.

**REKHA PALLI, J**

**RAJNISH BHATNAGAR, J**

**FEBRUARY 21, 2024/ib**