

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.1374/2002
MA 1413/2002

New Delhi this the 14th day of May, 2003

Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri S.K.Agrawal, Member (A)

Parshuram Sahoo,
S/O Shri Bidydhhar Sahoo,
227-B, Ground Floor,
Hari Nagar, Ashram,
New Delhi.

..Applicant

(By Advocate Shri Manoj Kumar Das)

VERSUS

1. Directorate of Education,
Govt. of NCT of Delhi
through its Director, Old
Secretariat, Delhi-54
2. The Delhi Subordinate Services
Selection Board through its
Chairman UTOs Building, Behind
Karkardooma Court Complex,
Institutional Area, Shahdara,
Delhi-110032

..Respondents

(By Advocate Shri Ajesh Luthra for R-1)
(By Advocate Shri Vijay Pandita for R-2)

O R D E R (ORAL)

(Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman (J)

This application has been filed by the applicant
challenging the order issued by the respondents dated
17.11.2000 read with the order dated 14.2.2002.

2. We have heard Shri Manoj Kumar Das, learned
counsel for the applicant, Shri Ajesh Luthra, learned
counsel for Respondent No.1 and Shri Vijay Pandita, learned
counsel for Respondent No.2 and perused the pleadings on
record.

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3. This OA has been filed on 22.5.2002. In Para 3 of the OA, an averment on behalf of the applicant has been made that the same is within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. We are informed by Shri Manoj Kumar Das, learned counsel for the applicant that in pursuance of the Tribunal's order dated 27.5.2002, he has filed MA 1413/2002 on 8.7.2002 praying for condonation of delay. Shri Ajesh Luthra, learned counsel appearing for respondent No.1 has taken a preliminary objection that the OA is barred by limitation, in view of the fact that the order sought to be relied upon by the applicant is dated 14.2.2002 which is nothing more than a reiteration of the earlier Memorandum issued on 17.11.2000. By Memo. dated 17.11.2000, the applicant had already been informed that the post of Assistant Teacher (Oriya) was reserved for a Scheduled Caste(SC) category candidate whereas the selection was made by respondent No.2/ Delhi Subordinate Services Selection Board (DSSSB) against an unreserved category.

5. With regard to the question of the advertisement and reservation of posts, we note from the submissions made by the respondents themselves that while respondent No.1 had requested the DSSSB to advertise the post of Assistant Teacher (Oriya) in the SC category by their letter dated 3.9.1998, Respondent No.2/DSSSB had wrongly mentioned this post against 36 posts reserved for Scheduled Tribe (ST)

category in the advertisement issued in 1998, calling applications for the posts of Assistant Teachers (Annexure R-3). The applicant admittedly is an OBC candidate and therefore, he is neither ^{a B-} SC nor ST candidate and finally another mistake has been committed by respondent No.2/DSSSB, by showing his name as a selected candidate for the post of Oriya teacher, without indicating any reservation in the general category. Applicant's counsel submits that the applicant himself had applied for the post as a general category candidate which was advertised as reserved for ST category.

6. We are not impressed by the submissions of the learned counsel for the applicant based on a copy of the advertisement placed at page 18 of the paper book that there was no indication whatsoever against the post of Oriya Medium Assistant Teacher as he has himself admitted that neither the name of the ~~newspaper~~ nor the date when it was advertised have been given in that document. As contended by Shri Ajesh Luthra, learned counsel, ^{the n=} asterisk mark (*) appearing against ST36, which is available in the copy of the advertisement of the DSSSB (Annexure R-3) has been omitted in the copy enclosed by the applicant at page 18 of the paper book. In the circumstances of the case, we find no reason to believe from the documents on record that the post of Oriya medium assistant teacher was indicated in the ST category and not in the general category as contended by the learned counsel for the applicant. This ground, therefore, fails and is rejected.

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7. We have carefully considered the reasons given by the applicant in MA 1413/2002 praying for condonation of delay. His contention is that the delay in filing the OA is bonafide and un-intentional as he had submitted a further representation to the Hon'ble Minister of Education which was pending, after Memo. dated 17.11.2000 and hence the delay should be condoned. This cannot be accepted in the light of a catena of judgements of the Hon'ble Supreme Court (see the judgements of the Hon'ble Supreme Court in S.S.Rathore Vs.State of MP (AIR 1990 SC 10) and K.R.Mudgal and Ors Vs.R.P.Singh and Ors (1986(4)SCC 531)). The applicant does not deny the fact that he has received Memo. dated 17.11.2000 referring to his earlier representation dated 18.10.2000 and he had also been given a hearing on that date by the concerned officer regarding the appointment of Assistant Teacher (Oriya). The reasons why he could not be appointed against the post of Assistant Teacher (Oriya) have been clearly stated in that Memo. The subsequent representations made by the applicant, including the representations to the Secretary (Education) and Hon'ble Minister for Education will not have any effect of extending the period of limitation. It is further relevant to note from the letter dated 14.2.2002 that the respondents are merely referring to their earlier Memo dated 17.11.2000 (enclosing a copy of the same) which has been issued to the applicant and stating that he had already been informed about the position earlier. They have also stated "hence his candidature for the said post cannot be reconsidered". In the facts and circumstances of the case, the repeated representations of the applicant cannot extend the period

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of limitation. We do not find any sufficient reasons under Section 21 of the Administrative Tribunal Act, 1985 to condone the delay in the present case. In this view of the matter, the OA is liable to be dismissed.

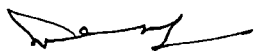
8. However, before we part with this case, we would like to record our anguish and displeasure in the manner in which the Respondent No.2/ D555B has been functioning with regard to the issuance of the advertisement to which a large number of candidates respond from throughout the country. Such wastage of valuable time and loss to the public exchequer should indeed be strictly avoided. That could have been done with sufficient care, which we hope the respondents will take care of in future.

9. In the circumstances, we do not consider it necessary to deal with the other contentions raised by the learned counsel for the applicant regarding reservation against which he had applied as a general candidate because these arguments are an after thought. In the advertisement, it has been clearly stated that this was a reserved post either for a SC or ST candidate, as contended by the learned counsel for the respondents, as the case may be and the applicant cannot claim as a matter of right to be appointed in the reserved post as a general candidate. In this connection, it is also relevant to note that in the reply affidavit filed on behalf of respondent No.2/D555B, they have stated that they have recommended the applicant's name again inadvertently under the unreserved category for the post of Assistant Teacher (Oriya) which was reserved for a SC candidate although they themselves had taken a wrong action and advertised the post for a ST candidate. These serious mistakes committed by respondent No. 2 would not, in our view give any

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enforceable right to the applicant for appointment to the post of Assistant Teacher (Oriya) against the reserved category to which he does not belong.

10. In the result, for the reasons given above, the OA fails and is dismissed. No order as to costs.



(S.K.Agrawal)
Member (A)

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(Smt.Lakshmi Swaminathan)
Vice Chairman (J)