

Central Administrative Tribunal
Principal Bench, New Delhi

R.A.No.153/2003
IN
OA No.2568/2002

This the 23rd day of June, 2003

HON'BLE SHRI GOVINDAN S.TAMPI, MEMBER (A)
HON'BLE SHRI SHANKER RAJU, MEMBER (J)

1. Govt. of National Capital Territory of Delhi
Through its
Chief Secretary,
5, Sham Nath Marg,
Delhi-110054.
2. The Director of Education
Govt. of National Capital Territory of Delhi
Old Secretariat,
Delhi-110054.
3. Delhi Subordinate Services Selection Board,
3rd Floor, UTCS, Building,
Institutional Area
Behind Karkardooma court Complex,
Shahdara, Delhi-110032.

...Applicants

Versus

Ms. Sunita Mumgaie
W/o Shri Rishi Dev Mumgaie
R/o A-56, Rishi House,
East Vinod Nagar, Lane No.8,
Near Mayur Vihar Phase-II,
Delhi

...Respondent

O R D E R (in circulation)

SHRI GOVINDAN S. TAMPI, MEMBER (A) :

RA-153/2003 has been filed by the respondents in OA 2568/2002 seeking recall and review of the order passed by the Tribunal on 9.4.2003.

2. We have considered the matter. Ms. Sunita Mumgaie had challenged her non-selection as TGT by the respondents. After examining the whole issue, the Tribunal allowed the OA by the following findings:-

"6. We have carefully considered the matter. The facts are not disputed. In terms of the advertisements given by DSSSB, 29+29 vacancies

had been advertised in the social studies category. In terms of the Govt's. own OM dated 8.2.1982, "Once a person is declared successful according to the merit list of selected candidates, the appointing authority has the responsibility to appoint him even if the number of vacancies undergoes a change after his name is included in the list of selected candidates. Thus, where selected candidates are awaiting appointment recruitment should either be postponed till all the selected candidates are accommodated or alternatively intake for the next recruitment reduced by the number of candidates awaiting appointment and the candidates awaiting appointment should be given appointments first, before starting appointments from a fresh list from a subsequent recruitment of examination." This also has support from the decision of the Hon'ble Supreme Court in the case of Prem Prakash (supra). The plea raised by the respondents in this case is that one of the vacancies of general candidates has been exhausted by bringing in a physically handicapped person, who was a general candidate, and, therefore, the same could not have been given to the applicant. The fact, however, remains is that in spite of fact that 58 posts had been advertised only 57 persons had been taken in, even including the physically handicapped person. The list was prepared at the end of the examination and announced included the name of the applicant at Sl.No.25, the validity of such panel stood at one year subject to being extended by another six months. It is seen that DSSSB list was published on and before the expiry of the period of one year and six months, the respondents have taken steps to advertise again for the fresh vacancies. This was clearly impermissible. If 58 persons as notified were called the applicant also would have been appointed correctly and in law.

7. In the circumstances, the OA succeeds and is allowed. Respondents are directed to issue letter of appointment to the applicant as T.G.T. (Social Study) as the last person selected in the SSSC Exam. of 1998, ahead of those, who have been recruited in the subsequent examinations. Needless to say she would also be entitled to get seniority accordingly though she would not be granted the benefit of any back wages as she had not worked during this spell. No costs."

3. Now the respondents have come up with this RA indicating that there was an error apparent on the face

(3)

of the record, as the Tribunal had not correctly appreciated the vacancy position and, therefore, a mistake had crept in the order. We find on examination that the same has no basis. The perusal of the order would make it clear that all the points have been examined while issuing the orders. The present attempt is to re-argue the issue. The same fails as it do not fall within the scope of review in terms of Section 22(3)(f) of the Administrative Tribunals Act, 1985 read with Order 47 of Civil Procedure Code. Decision of the Hon'ble Apex Court in the case of Avtar Singh Sekhon Vs. Union of India and Ors., AIR 1980 SC 2041 also fortifies our stand. If the review applicants are hurt by the findings/decision of the Tribunal, remedy lies elsewhere and not by way of review petition.

4. Review petition, being bereft of any merit, is dismissed in circulation.

S. Raju
(SHANKER RAJU)
MEMBER (J)

/ravi/

(GOVINDAN S. TAMPI)
MEMBER (A)