

(RESERVED)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD
(CIRCUIT SITTING AT NAINITAL)

This is the **14th** day of ***FEBRUARY, 2020***.

ORIGINAL APPLICATION NO. 331/01408/2018

HON'BLE MS. AJANTA DAYALAN, MEMBER (A).
HON'BLE MR RAKESH SAGAR JAIN, MEMBER (J).

1. Ranber Singh, aged about 51 years, son of Late Shri Jai Ram Singh Tomar, Deputy Secretary, Central Board of Secondary Education, Regional Office, 99, Kaulagarh Road, Dehradun-248001 (Uttarakhand) Resident of 13/8, Ashirwad Enclave, Ballupur, Dehradun, Uttarakhand

.....Applicant.

VERSUS

1. Central Board of Secondary Education through its Secretary, Shiksha Kendra, 2, Community Centre, Preet Vihar, Delhi-10092.
2. The Assistant Secretary (Recruitment Cell), Central Board of Secondary Education, Recruitment Cell, Shiksha Kendra, 2, Community Centre, Preet Vihar, Delhi-110092.

.....Respondents

Advocate for the Applicant : Shri Pooran Singh Rawat

Advocate for the Respondents : Shri T C Agrawal

ORDER
(Delivered by Hon'ble Ms. Ajanta Dayalan, Member-A)

Shri Pooran Singh Rawat, learned counsel for the applicant and Shri T C Agrawal, learned counsel for the respondents are present.

2. The present OA has been filed by the applicant Ranber Singh seeking to set aside the order dated 15.03.2018 (Impugned order) passed by the respondents rejecting his representation for fixation of his seniority as Deputy Secretary. The applicant has also sought fixation of seniority at Serial No. 6 in the provisional seniority list as on 18.05.2017 at Annexure No. A-3.

3. There is also an amendment application whereby the applicant has also challenged order dated 17.07.2019 issued by the respondents rejecting the subsequent representation dated 21.03.2018 which was given by the applicant after the order dated 15.03.2018 challenged in the OA.

4. In the OA, the applicant has stated that the Central Board of Secondary Education issued an office order dated 11.04.2014 for filling two posts of Deputy Secretary from feeder cadre through Limited Departmental Examination. The last date of submission of the application was 25.04.2014.

5. The written test for the Limited Departmental Examination was held on 17.11.2014 and the result of the written examination was declared on 19.04.2016 (Annexure No A-2). The applicant was the only candidate who cleared the written examination and was accordingly called for interview. The applicant has further stated that the seniority list dated 18.05.2017 at Annexure No. A-3 was circulated and in this list, the applicant's name is at serial no. 13.

6. The case of the applicant is that the Supreme Court in the case of ***NR Parmar Vs Union of India & ors (2012) 13 SCC 340*** has held that the 'conferment of seniority would be against the Recruitment Year in which the Recruitment Process is initiated for filling up of the vacancies'. According to the applicant, in light of this judgement, he needs to be considered for seniority w.e.f. from the date of initiation of the process of promotion which was in the year

2014 and not in 2016 as is being taken by the respondents. Accordingly, the applicant has sought revision of seniority list which shows his date of appointment/promotion in the grade of Deputy Secretary as 29.04.2016.

7. The respondents have contested the claim of the applicant. They have stated that on 11.04.2014, only an office order was issued for filling up of two posts of Deputy Secretary from feeder cadre through Limited Departmental Examination. The applicant applied for the same. The stages of selection consisted of Written Examination followed by Interview as well as evaluation of Confidential Reports/APARs. The respondents have stated that even the applicant has admitted that the process of examination consisted of written test and interview. The interview was conducted after declaration of result of written test on 19.04.2016. This entire process including evaluation of APARs was completed only on 28.04.2016. Hence, prior to completion of entire process of examination, seniority cannot be reckoned.

8. We have heard the counsels for both the parties and perused the pleadings available on record and have given our thoughtful consideration to the entire matter.

9. We observe that it is not disputed that two posts of Deputy Secretaries to be filled through Limited Departmental Examination were identified in 2014, the written examination for the same was held on 17.11.2014 and the result of the written examination was

declared on 19.04.2016. It is also not disputed that the applicant was the only person who qualified the written examination and was accordingly selected in the interview. It is also not disputed that he has already been granted seniority w.e.f., 29.04.2016.

10. We further observe that the result of the written examination was declared only on 19.04.2016. As per office order dated 11.04.2014, the process for Limited Departmental Examination consisted of three stages: (i) Written Test (ii) Evaluation of Confidential Reports/APARs and (iii) Interview. We also observe that after declaration of result of written test on 19.04.2016, interview was held and after evaluation of Confidential Reports/APARs, the applicant has been granted appointment/promotion to the higher grade w.e.f, 29.04.2016 itself. Thus, there was no delay in appointment of the applicant to the higher post after the declaration of the result of written examination.

11. We also do not see how seniority can be claimed even prior to declaration of result of the written examination which was undisputedly declared on 19.04.2016. But this examination had only 70% weightage in the entire assessment, the balance 30% being the evaluation of Confidential Reports/APARs and interview. It is also not disputed that interview was held subsequently after the declaration of result of written examination. We also do not see how seniority can be fixed from a date when only the posts have been identified for selection and even the test has not been held for the said selection and the candidate has not been selected therein, as is

being claimed by the applicant. In fact, any award of such seniority would be against the persons who have been already working as Deputy Secretary prior to April 2016. The claim of the applicant is therefore not reasonable or logical.

12. We are of the view that the applicant is trying to take undue advantage of the gap between identification of posts for filling up through examination in April 2014 and holding of written examination in November 2014 and declaration of results in April 2016. Even this gap is of less than two years. We are also of the clear view that this cannot be a ground for the applicant to claim that he was successful in the examination retrospectively. Any such decision will be without logic and will involve huge litigation as many other applicants in other examinations may quote this precedent and claim similar benefits.

13. We are also of the view that the case of NR Parmar (supra) does not apply here. That judgement basically deals with inter se seniority amongst persons recruited in different recruitment years in the same channel of promotion. This is not the case in the instant case. As such, this judgement is not applicable in the instant case.

14. Further, we observe that even though the applicant is seeking shifting of his seniority from Sl. No. 13 to Sl. No. 6 through this OA, he has not made those persons who will be adversely affected by any such decision party in the OA. These persons are interested parties

and hence, necessary parties in the OA. The OA is, therefore, liable to be dismissed for non-joinder of necessary parties as respondents.

15. In view of all the above discussions and specific facts of the case, we are clear that there is no ground for granting any relief as sought by the applicant. Accordingly, the OA is dismissed being devoid of merit.

(RAKESH SAGAR JAIN)
MEMBER-J

(AJANTA DAYALAN)
MEMBER-A

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