



CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No. 406/2017

Reserved on: 04.03.2020
Pronounced on: 17.03.2020

**Hon'ble Mr. S.N.Terdal, Member (J)
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Amar Singh Meena,
Aged 31 years,
S/o Sh. Natholi Ram Meena,
R/o RZ-1/114, Gali No. 3a
Durga Park, New Delhi-110045

... Applicant

(By Advocates: Mr. Mayank Khera, Mr. Udit Sharma and
Mr. Yogesh Kumar)

VERSUS

1. Delhi Subordinate Services Selection Board,
Through its Chairman,
Govt. of NCT of Delhi, F-18, Karkardooma,
Institutional Area, Delhi-92

2. Govt. of NCT of Delhi
Through the Chief Secretary,
5th Floor, Delhi Sachivalaya, New Delhi.

3. The Director
Directorate of Education,
(GNCT of Delhi)
Old Secretariat, Delhi. ... Respondents

(By Advocate: Ms Sangita Rai)

O R D E R

Hon'ble Mr. S.N. Terdal, Member (J):

We have heard Mr. Mayank Khera, counsel for applicant and Ms. Sangita Rai, counsel for respondents, perused the pleadings and all the documents produced by both the parties.



2. In this OA, the applicant has prayed for the following reliefs:

- "(i) Direct the respondents to consider applicant in the merit for appointment as a TGT Natural Science Male (Post Code 10/13) in ST Category as the applicant has fulfilled the criteria for appointment by securing 71.75 marks against the cut off marks 63.75 in the ST Category in which three vacancies are still available;
- (ii) Pass any other order which this Hon'ble Tribunal may deem fit and proper in existing facts and circumstances of the case."

3. The relevant facts of the case are that in response to the advertisement number 02/2012 issued by the respondent- Delhi Subordinate Services Selection Board (DSSSB), the applicant applied for the post of TGT -Natural Science- Male with post code 112/12. He had also applied for the said post bearing post code 10/13 in response to the advertisement 01/13 issued by the said respondent and he appeared for the common examination held with respect to both advertisements on 28.12.2014. With respect to the advertisement 01/13, the applicant had filled in OMR application form, in the said OMR application form, he did not darken the relevant circle relating to he having the essential qualification about the working knowledge of Hindi in column no. 13 of the said OMR application form. As such, he was treated by the respondents to the effect that he was not having the essential qualification and his



application was, therefore, rejected and he was not issued admit card with respect to advertisement No. 01/13.

4. The case of the applicant is that as the said common examination held with respect to both the advertisement, he should have been considered against the vacancies of both the advertisement, whereas the applicant was not considered by the respondents against the advertisement number 01/13.

5. The counsel for the applicant vehemently and strenuously submitted that non darkening of the relevant circle in the OMR sheet was an inadvertent and a minor fault and that the respondents having considered him eligible against the advertisement 02/2012, they should have also considered him eligible for the vacancies with respect to advertisement 01/13. In support of his contention, the counsel for the applicant relied upon the law laid down by the Hon'ble Supreme Court in the case of **Commr. Of Police and Ors Vs. Sandeep Kumar** (Civil Appeal No.(s) 1430/2007) and the order of the Tribunal in the case of **Husan Ara Vs. DSSSB Through Chief Secretary, GNCT of Delhi and Another** (CAT (PB)-OA 4656/2014).



6. The counsel for the respondents equally vehemently submitted that the OMR sheets are being processed through computer system and as the applicant had not darkened the relevant circle, his application with respect to advertisement number 01/13 was rightly rejected and as lakhs of candidates are applying in the recruitment process it is not possible to manually securitize each and every application and the applicant was not the only individual whose application was rejected on that and similar grounds and that there were clear instructions in para 8 and 9 of the advertisement specifically stating that in case of non marking of the relevant circle regarding the information sought for in the OMR application, the application would be rejected and as such there is no illegality in rejecting his candidature against the advertisement number 01/13 and in support of his contentions he relied upon the law laid down by the Hon'ble Supreme Court in the case of **State of Tamil Nadu & Ors. Vs. St. Joseph Teachers Training Institute & Anr.** reported in (1991) 3 SCC 87) and in several cases by the Delhi High Court wherein it has been observed that the applicants ought to have been vigilant while filling up the



application form and when they had failed to do so, no indulgence should be shown to them on any sympathetic considerations. In this regard, the relevant portion of the counter reply referred to by the counsel for the respondents is extracted below:-

- “2. OMR application form of the applicant Amar Singh Meena for the Post Code 10/13 was rejected as he did not possess the essential qualification required for the post, as per the Recruitment Rules, as per the information provided by him in Column No. 13- ‘Essential qualifications TGT & TGT (MIL)’ of the OMR application form. He did not darken the circle relating to an essential qualification whether having working knowledge of Hindi mentioned at para 13 of the OMR application form meaning thereby that he did not possess the said essential qualification and according rendering his application form and his candidature liable to be rejected, while he was duty bound to indicate the same, as per the instructions at para 8 and 9 of advertisement. Copy of OMR form is annexed as Annexure ‘A’.
3. A candidate applying for the post of a teacher which is associated with the noble job of structuring the failure of nation’s student by imparting learning and knowledge to them cannot be allowed to make such mistakes, as made by the applicant Amar Singh Meena.
4. The applicant failed to note and follow the instructions in para 8 ‘How to apply’ of the advertisement which aimed at sensitizing the candidate for filling up the application form properly. He also failed to note, and follow the instructions in para 9 ‘Invalid Applications’ of the advertisement which informed about the deficiencies that would render their form invalid. An invalid/rejected application form cannot let a candidate be allowed to appear in the related exam. A copy of the advertisement containing the referred instructions is annexed as Annexure ‘B’.



Hon'ble CAT has upheld such rejection of OMR application forms by DSSSB.

5. It is pertinent to mention that the Hon'ble CAT, in its order dated 12.08.2016 in OA No. 4572/2014 in a similar/related matter of Devender Yadav Vs. DSSSB has, inter alia, held that the applicants in the case cannot claim to be provided with a more favourable consideration than others have been provided by the respondents. The operative part of the order is reproduced as under:-

"21....In spite of the categorical findings recorded by the Division Bench of the Hon'ble Delhi High Court in the case of Aruna Meena Vs. Union of India and Anr. (supra), even that case had not been pointed out before, and noticed by the Coordinate Bench, while delivering its judgment on 18.12.2015 in Neha Nagar Vs. DSSSB & Ors.(supra)

22. We in respectful agreement with the Division Bench judgment of Hon'ble Delhi High Court in Aruna Meena Vs. Union of India and Anr.(supra), and we are bound by it, as well as the Single Bench judgment of the Hon'ble Rajasthan High Court in Manoj Kumar (supra), and are, therefore, as a result, unable to follow the Coordinate Bench judgment in Neha Nagar Vs. DSSSB & Ors (supra) and other related cases. The applicants ought to have been vigilant while filling up their application forms, and when they had failed to do so, no indulgence can be granted to them on any sympathetic considerations. The Hon'ble Apex Court has also in the case of State of Tamil Nadu & Ors Vs. St. Joseph Teachers Training Institute & Anr., (1991) 3 SCC 87: JT 1991(2) SC 343, held that mere humanitarian grounds cannot form the basis for granting reliefs against the settled propositions of law, or contrary to law, and when an instruction or yardstick prescribed in the concerned advertisement has been applied uniformly in the case of all other candidates, the three applicants before us cannot claim to be provided with a more favourable consideration than others have been provided by the respondents".



6. Accordingly, it is prayed to the Hon'ble CAT to dismiss the instant OA filed by the Applicant Amar Singh Meena in view of the above mentioned order of Hon'ble CAT, because he is on the same footing as the applicants of the above said OA No. 4572/2014 and other OAs discussed in the said order...."
7. In view of the facts and circumstances narrated above and in view of the law laid down by various High Courts including the Hon'ble Supreme Court referred to by the counsel for the respondents, we are of the view that the action of the respondents does not suffer from any infirmity and cannot be interfered with. Accordingly, OA is dismissed. No order as to costs.

(Mohd. Jamshed)
Member (A)

(S.N.Terdal)
Member (J)

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