



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 3572/2017

Reserved on: 30.01.2020
Pronounced on: 05.03.2020

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

Ms. Monika,
D/o Shri Ram Kishan,
Aged about 29 years, Post-TGT (Group B),
R/o Flat No. 201, Lake View Apartment,
Sector-9, Rohini, Delhi.

... Applicant

(By Advocate Ms.Pragnya Routray)

VERSUS

1. DSSSB
Through its Chairman
FC 18, Karkardooma Institutional Area,
Karkardooma, Delhi.
2. Directorate of Education,
Govt. of NCT of Delhi
Through its Director, Old Secretariat,
Delhi-110054.

... Respondents

(By Advocate: Mr. Amit Yadav)

ORDER

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

We have heard Ms.Pragnya Routray, counsel for applicant and Mr.Amit Yadav, 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) Issuance of appropriate direction to the respondent to include the name of the Applicant in the selected list of candidates and consider the Applicant for appointment to the said post TGT (Computer Science).
- ii) Pass such order or orders as this Hon'ble Tribunal may deem fit in the facts and circumstances of the case."

3. The relevant facts of the case are that the applicant applied for the post of TGT (Computer Science) with post code no.192/14 under UR/General category. The closing date for filing the application was 27.02.2014. At the time of appearing for the examination in 2017 she filled in the Optical Mark Reader (OMR) sheet and in the said OMR she entered as she is PH/OH category. As the examination result was processed through the computer she was short listed under PH/OH category and consequently she uploaded her documents also in the e-dossier portal under PH category but however while processing the result the respondents came to learn that she had applied originally under the UR/General category and as such she was not considered under PH category. The applicant had submitted a representation on 02.06.2017 treating her under PH category. But, however, the respondents



rejected the said representation on the ground that the policy of the Board does not permit any change of the category. The averments made in this regard in the counter affidavit are extracted below:-

- “1. DSSSB (hereinafter referred to as ‘the DSSSB) advertised the vacancies, inter-alia for the post of TGT (Computer Science) vide Advertisement No. 01/14. The candidates at the time of applying for the post were required to indicate their category and sub-category. Ms. Monika(hereinafter referred to as ‘the Applicant) had applied for the post of TGT (Computer Science), Post Code-192/14 under UR/General category.
2. Subsequently, at the time of appearing in the examination, she changed her category as PH/OH and, therefore, the computer shortlisted the Applicant under PH/OH category and was directed to upload the documents in the dossier portal. While processing the result, it came to knowledge that the applicant had applied for the post of TGT (Computer Science) under UR/Gen. category). As per the policy of the Board, the results are processed in the applied category, i.e. the category in which he/she applied and no change in category is allowed thereafter. Thus the Applicant cannot be permitted to change her category.”

4. The counsel for the applicant vehemently and strenuously submitted that she is indeed a handicapped candidate and that by inadvertence she had applied under general category and she had made her representation for considering her as handicapped category before the declaration of result in September, 2017 hence, the reliefs prayed for in the OA be granted. In support of her contention, the counsel for the applicant relied upon the order dated 08.03.2019 passed by Hon’ble High Court of Delhi in the case



of Govt. of **NCT of Delhi and Anr. Vs. Mukesh Kumar Yadav** (WP(C) 10007/2018).

5. The counsel for the respondents equally vehemently submitted that as per para 10 and 11 of the advertisement, it is very clearly stated in so far as handicapped candidates are concerned they should verify their admit card and in case there is discrepancy regarding their category they should approach the Board, and in this case the admit card was also issued to the applicant as a general candidate as she had applied originally as a general candidate and in the OMR sheet she had applied under the PH category which was detected at the time of final verification before declaring the result and she is not permitted to change her category. In support of his contention, he relied upon the following orders:

- “1. **Shri Karamvir Vs. GNCTD through Commissioner of Police and Ors.** (OA 273/2010)
2. **Divipty Dagar Vs. DSSSB through its Secretary and Ors.** (OA 920/2019)
3. **Tarun Tomar Vs UOI through Secretary SSC and others** (OA 769/2019).
4. **Vikas Yadav Vs. SSS through its Chairman** (OA 677/2017)
5. **Mohd. Sohail Vs. UPSC Through its Under Secretary** (OA 1403/2019)



In the order dated 09.03.2019 in OA 920/2019 (**Divipty Dagar Vs. DSSSB & Ors**) relying on the Hon'ble Supreme Court Judgment in the case of **Union of India and others Vs. Dalbir Singh & another** in Civil Appeal No. 3409/2009 it has been held that such changes not permissible. The relevant portion of the order dated 09.03.2019 is extracted below:-

"5. After hearing learned counsel for the applicant, we have raised a query to the learned counsel that only point for consideration in this case itself is whether the applicant, who had originally applied as a General Category by filling online applications forms, is entitled to change her category into OBC even after appearing and declaration of the result. Counsel for the applicant has not been able to give any plausible explanation or reasons in support of the claim of the applicant except what has already been noted above. It is pertinent to mention that similar issue had already been settled by the Hon'ble Supreme Court in the case of Union of India and others v. Dalbir Singh & another in Civil Appeal No.3409/2009 vide judgment dated 9.5.2009, the relevant portion of the said judgment reads as under:-

"10....In our opinion, having opted to consider his case only under OBC category, he cannot thereafter claim that his case requires to be considered in the general merit, only because, he has secured better percentage of marks than the last selected candidate in the general merit. In our considered view, the Administrative Tribunal having found that the appellants were justified in not considering the respondent's case for appointment under OBC category, ought not to have directed the appellants to consider his claim under general category."



6. Since the Hon'ble Supreme Court in the aforesaid case has categorically held that a candidate having opted to consider his/her case under a particular category, he/she cannot thereafter claim that his/her case requires to be considered in other category merit, only because he/she scored better percentage of marks than the last selected candidate in other category. We do not find any prima facie case is made out by the applicant for issuance of notice to the respondents. Therefore, we dismiss this OA being devoid of merit at the admission stage itself. There shall be no order as to costs."

6. In view of the facts and circumstances of the case and in view of the order passed by this Tribunal taking into account the law laid down by the Hon'ble Supreme Court referred to above, we are of the view that there is no merit in this case.

7. Accordingly, OA is dismissed. No order as to costs.

(Mohd. Jamshed)
Member (A)

(S.N.Terdal)
Member (J)

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