



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA No. 2547/2016

This the 17th day of December, 2019

**Hon'ble Mr. S.N. Terdal, Member (J)
Hon'ble Mr. A.K. Bishnoi, Member (A)**

Ms. Babli Meena, aged 30 years
w/o Sh. Sandesh Kumar Meena
r/o 72/92, Patel Marg, Mansarovar
Jaipur - 302020 (Raj). ...Applicant

(through Sh. Yogesh Sharma)

Versus

1. Kendriya Vidyalaya Sangathan
Through its Commissioner
18, Institutional Area, Shaheed Jeet Singh Marg
New Delhi-16.
2. The Joint Commissioner (Admn.)
Kendriya Vidyalaya Sangathan
18, Institutional Area, Shaheed Jeet Singh Marg
New Delhi-16. ...Respondents

(through Sh. U.N. Singh)

ORDER (Oral)

Hon'ble Mr. S.N. Terdal:

Heard Sh. Yogesh Sharma, learned counsel for the applicant and Sh. U.N. Singh, learned counsel for the respondents and perused the pleadings and all the documents.

2. The relief prayed for in the OA are as follows:

" (i) That the Hon'ble Tribunal may graciously be pleased to pass an order of quashing the Reserve Panel dated 8.4.2016 (Annex. A/1) only to the extend by which the ST candidates have not been included in the Reserve Panel for the post of Primary Teacher declaring to the effect that the same is illegal, arbitrary and against the law and



consequently pass an order directing the respondents to include the name of ST category candidates including the applicant who is the next available ST candidate in Reserve panel and also consider for her appointment against the unfilled ST category post of Primary Teacher being a next eligible selected candidate with all consequential benefits.

(ii) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicant."

3. The relevant facts of the case are that the applicant, belonging to the ST category, successfully completed all the stages of the examination, namely, Preliminary test and Main examination and appeared in the interview also and she secured 27.53 marks. There were 76 vacancies in the ST category and ultimately only 59 candidates were selected.

4. Learned counsel for the applicant vehemently and strenuously submitted that in the mode of selection and the scheme of selection given in the Advertisement No. 2, for the year 2011-2012, the respondents are specifically empowered to prescribe cut off for the preliminary examination and cut off for the main examination and only those who cross the cut off marks for the preliminary and main examination would be called for the interview, and the applicant had secured more than those cut off marks. He further submits that there is no cut off marks prescribed in the said notification for the interview nor the respondents are empowered to prescribe any cut off marks in the interview and the final merit list is to be prepared and selection be made as per merit. The relevant paragraph of the Advertisement is extracted below:

"8. MODE OF SELECTION AND SCHEME OF EXAMINATION



The mode of selection shall include a written examination test/interview as per the following scheme of the examination:

i. Preliminary Examination: The test will be an objective type multiple choices of answers consisting of 150 questions for a duration of 3 hours and will carry 1 mark each, in 2 parts, as per details mentioned below:

Part – 1: The Paper will consist of 110 Questions in the disciplines of General Knowledge, General Awareness, Current Affairs, General Science & Indian Constitution, Reasoning, Quantitative Aptitude and Teaching Aptitude etc. The medium of the question paper will be both English and Hindi

Part – 2: The Paper will consist of 40 Questions (*20 questions based on English language and 20 questions based on Hindi language*) for evaluation of language competence of the candidates which will be of qualifying in nature. However, the candidate will be expected to obtain 05 marks in English & Hindi separately as well as minimum 13 marks in this paper as a whole in order to qualify the test.

Note:-For the evaluation purpose there shall be no negative marking.

ii. Main Examination : Based on the marks and merit rank secured by a candidate in Part-I of the Preliminary Examination, up to a cut off percentage as decided by KVS and those candidates who qualify in Part-2 will be called for the Main Examination. This will be of Descriptive Type Paper consisting of 120 marks for a duration of 3 hours. The medium of the question paper will be both English and Hindi (except Language papers i.e. English, Hindi)

This examination will consist of long, medium and short answer questions pertaining to subject/posts for which a candidate has applied. The questions may be recall type questions to test the conceptual understanding of the topics. A few questions on drawing interpretations from given raw data and some situational questions may also be asked to test the analytical ability and intelligence of the candidates.

iii Interview Test : While processing the final result only those candidates will be included who have obtained a pre determined cut off percentage of marks in the Main Examination. Only those candidates will be called for the interview who has secured merit rank based on the performance (above cut off percentage).

The candidate will be interviewed by a Board who will have before them a record of his career. He will be asked questions on matters of general interest and on the subject pertaining to the post applied for. The object of the interview is to assess the personal suitability of the candidate for a career in teaching profession by a Board of competent and unbiased observers. The test is intended to judge the mental caliber and communication skill of a candidate.

Some of the qualities to be judged are mental alertness, critical powers of assimilation, clear and logical



exposition, and balance of judgment, variety and depth of interest, leadership, intellectual and moral integrity.

The technique of the interview is not that of a strict cross-examination but of a natural, through directed and purposive conversation which is intended to reveal the mental qualities of the candidate.

The interview test is not intended to be a test either of the specialized or general knowledge of the candidates which has been already tested through their written papers. Candidates are expected to have taken an intelligent interest not only in their special subjects of academic study but also in the events which are happening around them both within and outside their own state or country as well as in modern currents of thought and in new discoveries which should arouse the curiosity of well educated youth/informed citizen.

The final merit will be based on the combined performance in the written test and interview and the weightage shall be 80:20 respectively. However, the weighted evaluation scheme in respect of misc. category of teachers such as Music teacher shall be: Written Test 50%; Performance Test 30%; and Interview 20%.

(Emphasis supplied)

5. The respondents in the counter affidavit submitted that the applicant was not selected because she has not secured 28% overall cut off prescribed for the SCs/STs. The relevant paragraph in the counter is extracted below:

"(A)-(I) That in the reply to paras(A) to (I) of the grounds, it is submitted that the present O.A. is legally not maintainable and the applicant has failed to make out any ground whatsoever. It is totally wrong and denied that the impugned action/inaction of the respondents are illegal, arbitrary, unjustified and unconstitutional or that the respondents are under a legal obligation to fill up all the notified vacancies as alleged. The case law referred in ground are not applicant and relevant for the present case. The allegations are baseless and misconceived. As already submitted that the Kendriya Vidyalaya Sangathan had published Advertisement for the post of TGTs and PRT in KVS for the year 2011-12 in the Employment News dated 30th October-5th November, 2010 for filling up various teaching posts including 592 vacancies for the post of Primary Teacher. The preliminary test was conducted on 12.02.2011 and on the basis of the direction of the various Hon'ble CAT, the main examination for the post of TGTs and PRT was conducted on 27.07.2014. On the basis of performance in the main examination, the applicant was called for interview for the post PRT. The interview was conducted in the month



of November, 2014. The break-up of 592 vacancies advertised is as under:

Post	UR	SC	ST	OBC	Total
Primary Teacher	301	88	44	159	592

Before conducting the main examination for the post of PRT and TGTs, the vacancies of PRT & TGTs were revised. The vacancies of PRT were revised from 592 to 1025. The break-up of 1025 vacancies advertised is as under:-

Post	UR	SC	ST	OBC	Total
Primary Teacher	520	153	76	276	1025

In the recruitment year 2009-2010 and 2010-2011, the competent authority of the respondents had fixed the minimum cut-off weightage for selection. The minimum cut-off (weightage) for selection of the candidates for the post in the year 2009-2010 and 2010-2011 are as under:-

General : 33%

OBC : 30%

SC/ST : 28%

The same process of minimum cut-off weightage was also followed in the year 2011-2012. It is pertinent to mention that there was 76 vacancies of PRT reserved for ST category but only 59 candidates who were obtained 28 weightage in the written test and interview were empanelled in the select panel of PRT under ST category. Since against 76 vacancies of PRT reserved for ST category, only 59 candidates who were obtained 28 or more than 28 weightage were empanelled in the select panel of PRT under ST category. Hence no reserve panel for ST category was prepared and as such the present OA as filed by the applicant is without any cause of action and has been filed malafidely.”

6. The learned counsel for the respondents vehemently and strenuously submitted that the cut off for final merit is being followed right from 2008 selections. He further submitted that the performance in interview is also taken into account while fixing the cut off and the overall marks of the candidate was less than the cut off fixed for the entire selection.



7. But, however, from the perusal of the mode of selection and the scheme of examination extracted above, there is no power vested with the respondent to prescribe overall cut off for final selection and moreover, out of 76 vacancies earmarked for them, only 59 candidates belonging to ST category have been appointed. In view of the same, we are of the view that prescription of 28% cut off marks for overall selection, is arbitrary and whimsical. Hence, we direct the respondents to select the applicant against the unfilled vacancy of the ST category, if she is otherwise found fit, with all consequential benefits without backwages, within a period of three months from the date of receipt of a certified copy of this order. The OA is accordingly disposed of. No order as to costs.

(A.K. Bishnoi)
Member (A)

(S.N.Terdal)
Member (J)

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