

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1155/2001  
MA No.979/2001

New Delhi this the 24<sup>th</sup> day of January, 2002.

HON'BLE MR. V.K. MAJOTRA, MEMBER (ADMNV)  
HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

Jagphool S/o Sh. Mukhtar Singh,  
R/o Vill Kaluwas P.O. Paluwas,  
Tehsil & Distt. Bihawni (Haryana) -Applicant

(By Advocate Shri S.R. Kalkal)

-Versus-

1. Union of India,  
through Secretary,  
Ministry of HRD (Education Branch),  
New Delhi.
2. Commissioner,  
Kendriya Vidyalaya Sangathan,  
Ministry of HRD (Education Branch),  
Govt. of India,  
18, Institutional Area,  
Shaheed Jeet Singh Marg,  
New Delhi-110016.
3. Assistant Commissioner (Admn.),  
Kendriya Vidyalaya Sangathan,  
Ministry of HRD (Education Branch),  
Govt. of India,  
18, Institutional Area,  
Shaheed Jeet Singh Marg,  
New Delhi-110016. -Respondents

(By Advocate Shri S. Rajappa) (None for R-1)

ORDER

By Mr. Shanker Raju, Member (J):

The applicant, who is a physically handicapped (PH) person, in pursuance of a notification issued by the respondents on 23.2.2000 for interviews for the post of TGT has applied for the same and was interviewed on 15.3.2000. The grievance of the applicant is that the respondents have not declared the results of the candidates falling under the category of PH and as the same is a continuing ground MA-979/2001 has been filed for condonation of delay. The applicant has sought to carry forward the vacancies for the next three years and to declare him as selected and appointed as PHT.

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2. The learned counsel for the applicant placing reliance on Sections 33 and 36 of Handicapped Act, 1995 contended that the respondents have failed to come out with the methodology of selection including the total points allotted for written and interview and also contended that the results have not been declared which shows violation of Articles 14 and 16 of the Constitution of India and also they have been subjected to only two minutes interview and have been asked question in a mechanical manner to which the applicant has answered effectively but yet he has not been appointed. It is contended that if the vacancy is not filled up due to non-availability of suitable persons with disability the same is to be carried forward in the next recruitment year and in succeeding recruitment years also and thereafter the same is to be filled up by a person other than PH. In this backdrop it is stated that the applicant should be considered for the year 2001 for being appointed as PHT in the PH quota.

3. The respondents on our directions have produced the relevant records and strongly rebutting the contentions of the applicant stated that this court has no jurisdiction to entertain the grievance of the applicant as he is a resident of Haryana and also as per clause (vi) of the conditions in the notification the candidates who have been called for the written test and interview have no indefeasible right and would not be assured of selection. As the applicant has not been found upto the standard he was not selected. In the results of the selection as per the merit list of PH the applicant had secured only 66.50% marks including written as well as interview and as the performance of this category was very poor nobody has been

recommended for appointment. It is also stated that the two candidates have secured more marks than the applicant, viz. Pawan Kumar Sharma as well as Sushil Kumar Sharma. It is stated that mere qualifying in the written test and interview would not be construed that the applicant has been selected. It is for the purpose of ascertaining the eligibility of the applicant and his suitability he is subjected to the test. As the applicant has failed in the interview and has failed to secure the requisite marks, the methodology adopted for allocation of marks was objective and the candidates who have qualified in the written test and interview were empanelled and have been subsequently placed in the panel. The Board has examined candidates thoroughly and the contention that the applicant was subjected to two minutes interview is not correct. As the applicant has not been found suitable he cannot insist upon to fill up the post for the year 2001 in PH quota. The same would be filled up in accordance with law and instructions on the subject.

4. The applicant has re-iterated his pleas taken in the OA by way of filing a rejoinder.

5. We have carefully considered the rival contentions of the parties and perused the material on record. In our considered view the methodology adopted by the respondents is neither arbitrary nor violative of the provisions of Articles 14 and 16 of the Constitution of India. As none of the candidates in the PH category have qualified to attain the requisite criteria and their performance was poor including that of applicant nobody has been recommended for being appointed under the category of PH. The applicant has no indefeasible right to be

appointed to the post unless he is found qualified as per the standard laid down by the respondents. In the notification issued on 23.2.2000 this has been made clear that mere calling for interview would not entitle the candidate for appointment to the post. Having failed to show any legal infirmity in the selection and the records produced by the respondents also support their contention that the selection was fair and two PH candidates have even secured more marks than the applicant, the applicant has no legal or valid claim or vested right to be appointed to the post. As far as the provisions of Handicap Act are concerned, no doubt the vacancy is to be carried forward for the next recruitment years but this would not give a right to the applicant who has failed to achieve the requisite criteria and failed to stake any claim for his appointment. The applicant cannot insist for filling up the vacant post for PH persons for the year 2001. The same shall be filled up in accordance with law and rules but would not be available to the applicant who was not found suitable for the post.

6. Having regard to the reasons recorded above, finding no infirmity in the selection process the OA is found bereft of merit and is accordingly dismissed. No costs.

S. Raju

(Shanker Raju)  
Member(J)

'San.'

V.K. Majotra

(V.K. Majotra)  
Member(A)