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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.2573/2001

Tuesday, this the 29th day of October, 2002

Hon'ble Shri Justice V.S.Aggarwal, Chairman
Hon'ble Shri S.A.T. Rizvi, Member (A)

Neelam
d/o Shri Ombishan
Vill.& P.O. Mangeshpur
Delhi-39

...Applicant

(By Advocates: Shri K.C.Mittal & Shri Bhasker Bhardwaj)

Versus

1. The GNCT of Delhi
through its Chief Secretary
5, Shamnath Marg
Delhi
2. Director of Education
Directorate of Education
Behind Old Secretariat
Delhi
3. Administrative Officer
Admn. Branch
Directorate of Education, GNCT
Distt. North West A
Hakikat Nagar
Delhi
4. Delhi Subordinate Staff Selection Board
through its Secretary, Institutional Area
Delhi-91

...Respondents

(By Advocates: Shri Rajan Sharma, Shri Vijay Pandita and
Shri Ashwini Bhardwaj)

O R D E R (ORAL)

Shri Justice V.S.Aggarwal:

There were, in all, 24 posts of PGT (Hindi). They pertained to females. The applicant had been placed at Sl.No.11 on merits. The ~~premise~~ grievance of the applicant is that by clubbing of the vacancies of other disciplines, i.e., other than Hindi, two physically handicapped persons in general category as that of the applicant had been selected and thereby only 10 general candidates on merits and two general candidates



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(physically handicapped) were taken. In this process, the applicant lost her chance to be so appointed.

2. The precise grievance, therefore, is that clubbing of the vacancies from other disciplines and giving 3% of reservation to physically handicapped in PGT (Hindi) in female category violates the legal rights of the applicant.

3. On careful consideration of the facts, we find that what is being urged at the bar has merit. Perusal of the reply filed by the respondents indicates that admittedly there were 2 posts of physically handicapped category. They had not been counted separately and had to be interpolated, wherever available. This supports the contention of the applicant that there has been clubbing of further disciplines with Hindi. If there were 24 posts in all, at best, there could only be one post for physically handicapped. That being so, we have no hesitation in concluding that the applicant was entitled to be so appointed as claimed by her.

4. Similar question had arisen before this Tribunal in the case of Birbal Singh Poonia Vs. National Capital Territory of Delhi (OA-1536/2000), decided on 24.4.2001. After relying on the decision of the Apex Court in the case of Dr. Chakradhar Paswan Vs. State of Bihar & Others, reported as (1998) 2 SCC 214, this Tribunal held that clubbing of posts for reservation purposes is erroneous.

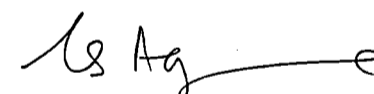
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5. Identical is the position before us as pointed above and re-mentioned at the risk of repetition, posts have been clubbed and in this process, the rights of the applicant was put in jeopardy. She had a legal right to be appointed being selected on merits because both the posts for physically handicapped persons could not be clubbed in Hindi teachers.

6. We are told that almost all persons so selected have since joined but vacancies were also stated to be available. It is directed that the respondents would grant appointment to the applicant to the post of PGT (Hindi) with consequential benefits. She will be having the seniority as was fixed on merits on the declaration of result. The necessary exercise of appointing the applicant should be completed within a period of two months from today. The applicant's learned counsel states that till today, the applicant will not claim the arrears as a consequential benefit.


(S.A.T. Rizvi)
Member (A)

/sunil/


(V.S. Aggarwal)
Chairman