

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.3156/2001

New Delhi, this the 29th day of October, 2002

Hon'ble Shri M.P. Singh, Member(A)
Hon'ble Shri Shanker Raju, Member(J)

Hasoon Rashid Gilani
B-121, Zakir Bagh
Okhla Road, New Delhi

.. Applicants

(By Shri Vikas Singh with Shri Syed Ali Ahmed,
Advocates)

versus

Director of Education
Directorate of Education
Govt. of NCT of Delhi
Old Secretariat, Delhi

.. Respondent

(By Shri Mohit Madan, proxy for Mrs. Avnish
Ahlawat, Advocate)

ORDER(oral)

Shri M.P. Singh, Member(A)

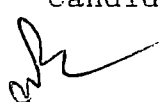
In response to the advertisements released by the respondent for filling of posts of Lecturers the applicant applied for the one of the said posts in Political Science and he participated in a written test on 22.8.99 conducted by the Delhi Subordinate Staff Selection Board (DSSSB). On 4.10.99 the result of the written test was declared and applicant's name figured in the list of successful candidates. When no offer of appointment was received by the applicant even after a long wait, he made representations to the respondents for the same which yielded no result. Thereafter he filed CWP No.2514/2000 before the Delhi High Court. By order dated 18.10.2001 passed by the High Court, the said petition was dismissed as withdrawn with liberty to the applicant to approach this Tribunal. That is how the applicant is before us seeking directions to the respondent to issue offer of appointment to him for the post of Lecturer in Political Science.



(10)

2. According to the applicant, OA 1536/2000 filed by one Birbal Singh Poonia, who was also selected for the post of Lecturer(Hindi) along with him but was not appointed as such, was allowed by this Tribunal vide its order dated 24.4.2001 with the direction to the respondent to issue appointment letter to the said Birbal Singh Poonia for the post of Lecturer in general unreserved category and applicant's case stands on similar footing. Applicant has contended that under the Disabilities Act, only 3% reservation is provided for the disabled and since in Political Science, there were only 17 vacancies, not a single vacancy could be earmarked for disabled because 3% of 17 comes to less than one.

3. Respondents have opposed the OA and have stated in their reply that they had notified 322 posts of PGT (Lecturers) in different subjects to DSSSB, out of which 17 were for PGT(Pol Sc.) Male. Of the 17 posts, 6 are reserved for general category, while 4 were reserved for SC, 4 for ST and 3 for OBC candidates. After conducting the test, 320 candidates were short listed, out of which 18 candidates were for the post of PGT (Pol Sc.) Male, i.e. 6 for general category, 4 each for SC and ST, 3 for OBC and 2 for Physically Handicapped (PH) candidates. PH and Ex-servicemen are to be adjusted against their respective category viz. Gen/SC/ST/OBC. As the PH candidates belonged to general category, respondents had to withhold the dossiers of two candidates of general category including the applicant. Applicant's name appeared at Sl.No.6 i.e. 11th last in the merit list of general category. As respondents had to appoint candidates in the PH quota first who belonged to general



category, the name of applicant was withheld. They made genuine efforts to accommodate the applicant against cancellation of any candidature but as there was no cancellation, applicant could not be adjusted. In view of this position, OA is devoid of merit and be dismissed. (11)

4. We have heard the learned counsel for the parties and perused the records.

5. During the course of the arguments, the learned counsel for the applicant has insisted that of the 17 candidates short listed, 6 were for general category and 11 for reserved category candidates. In other words, reservation has exceeded the 50% limit as prescribed under law. He has therefore contended that since the applicant's name appears at Sl.No.6 in the select list of general candidates, if the reservation policy had been correctly and scrupulously followed, applicant would have been appointed as a general candidate. By appointing two persons more than the 50% reservation limit from amongst the reserved candidates, the aforesaid policy has been violated. The learned counsel further contended that respondents have appointed only 4 candidates against general category out of 6 posts and two posts are yet to be filled. That apart, respondents have again notified six vacancies for PGT (Pol.Sc.) in general category vide their advertisement dated 30.5.2002.

6. The facts that applicant's name figured at Sl.No.6 of the selected candidates against general category and that only 4 persons belonging to general category have been appointed against 6 posts advertised are not disputed.

There is no proper explanation from the respondents how

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they have exceeded 50% reservation limit, which is against the settled law. We have gone through the judgement in the case of Birbal Singh Poonia (Supra) relied upon by the applicant and we are satisfied that applicant's case is covered in all fours by the said judgement. In that case, placing reliance on the judgements rendered by the apex court in the case of Dr.Chakradhar Paswan Vs. State of Bihar (1998) 2 SCC 214 and in the case of Dr. Suresh Chandra Verma & Ors. Vs. The Chancellor, Nagpur University (1990) 4 SCC 55, this Tribunal has held that "it is clear that the practice followed by the respondent-authority by clubbing posts for reservation purposes is erroneous". Thus, we have no hesitation to hold that the present case is covered in all fours by the judgement in Birbal Singh Poonia's case (supra).

7. Therefore, having regard to the judgements of the apex court (supra), judgement of the Tribunal in the case of Birbal Singh Poonia and also for the reasons recorded above, the present OA is allowed and the respondents are directed to issue offer of appointment to the applicant against one of the posts notified by them by public notice dated 30.5.2002 for the post of Lecturer/PGT (Political Science) as expeditiously as possible.

S. Raju

(Shanker Raju)
Member(J)

M.P. Singh
(M.P. Singh)
Member(A)

/gtv/

OA disposed of by 29-5-02
from 1st 30/5/02 for clarification
w/ret/cation