

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 345/1998

199

T.A.No.

DATE OF DECISION 6-1-1999

Sh. Jai Parkash Pandey

....Petitioner

Shri V.K.Rao

....Advocate for the
Petitioner(s)

VERSUS

Govt. of NCT through its ChiefRespondent
Secy. and Ors.

Shri Raj Singh

....Advocate for the
Respondents.

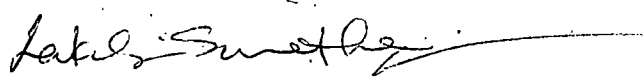
CORAM

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble Shri N. Sahu, Member (A)

1. To be referred to the Reporter or not? YES

2. Whether it needs to be circulated to other
Benches of the Tribunal? No.


(Smt. Lakshmi Swaminathan)
Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

DA 345/1998

New Delhi this the 6th day of January, 1999.

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Shri N. Sahu, Member (A)

In the matter of

Jai Parkash Pandey,
Son of Shri Bhola Nath Pandey,
R/O 111-C Pocket A,
Dilshad Garden,
Delhi.

.. Applicant

(by Advocate Shri V.K.Rao)

Versus

1. Govt. of N.C.T.
through its Chief Secretary,
5, Sham Nath Marg,
Delhi.

2. Director of Education,
Govt. of N.C.T.
5, Sham Nath Marg,
Delhi.

.. Respondents

(by Advocate Shri Raj Singh)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Applicant has filed this DA being aggrieved by the action of the respondents in not considering his candidature for appointment to the post of Trained Graduate Teacher (TGT) in various schools under them.

2. The applicant has stated that he had submitted an application for consideration for appointment to the post of TGT in pursuance of the respondents' advertisement dated 21.1.97. In this advertisement, it is stated that the applications received after 5.2.1997 will not be entertained under any circumstances. Shri V.K.Rao, learned counsel for the applicant, has submitted that the respondents have in their reply taken two objections for not considering the candidature of the applicant, namely, (i) that the date of validity of the Employment Exchange Card and Registration ^{said} were not mentioned and (ii) that his application for the ^{said} post

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had not been routed through proper channel. The applicant was admittedly working in a school under the MCD in the post of Assistant Teacher. Learned counsel for the applicant has submitted that applicant had submitted an advance copy of his application form to the respondents and also submitted another copy to the MCD for forwarding to the respondents for consideration. He has submitted that as regards the objection of the Employment Exchange, Card No. and Regd. No. this ground is no longer valid having regard to the judgement of the Hon'ble Supreme Court in Excise Superintendent Malkapatnam Krishna, District A.P. Vs. K.B.N. Viswarhware Rao and others (1996) 6 SCC 216. Since this ground, though mentioned, is not pressed by Shri Raj Singh, learned counsel for the respondents in view of this judgement of the Hon'ble Supreme Court, we do not propose to deal with this further.

3. Regarding the second ground, namely, that the applicant had not routed his application through proper channel i.e. MCD, Shri V.K.Rao, learned counsel has drawn our attention to the copy of the application form submitted by the applicant, which is annexed to his rejoinder. Shri Raj Singh, learned counsel has submitted that this cannot be taken into account as the applicant had not mentioned these facts in the OA itself. We do not find force in the arguments of the learned counsel for the respondents because it was only in the reply that they have given the reasons as to why the candidature of the applicant had not been considered. Accordingly we do not see any reason why the objection regarding non-submission of the application through proper channel should not be rejected. In the copy of the application form, we note that the same has been forwarded by the MCD on 3.2.1997 to the respondents. The respondents have not clarified in their reply as to the date the application form which was duly forwarded by MCD on 3.2.97, was received by them and in the circumstances it cannot, therefore,

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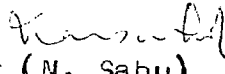
be held that the application form was received after the cut off date i.e. 5.2.1997. Shri Raj Singh, learned counsel for the respondents, however, submits that the applicant has failed to mention that he had submitted an advance copy in the OA and he had also not mentioned that duly forwarded copy through MCD has been sent to the respondents and, therefore, there is no inaction or illegality on the part of the respondents in rejecting the candidature of the applicant.

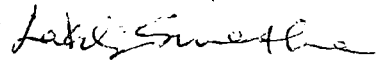
4. We have considered the pleadings and the submissions made by the learned counsel for the parties. We note from the documents placed on record that the MCD had granted "No Objection Certificate" to the applicant which is dated 3.2.97. We also note from the copy of the application form placed at Annexure R-1 to the rejoinder that the MCD has also forwarded the copy of the applicant on 3.2.1997. In the circumstances we see force in the arguments of the learned counsel for the applicant that the application form has been duly forwarded through proper channel before the due date i.e. 5.2.1997. We are also not convinced with the arguments of the learned counsel for the respondents that this has not been received within the cut off date. It is also relevant to note that the Tribunal by order dated 3.6.98 had directed the respondents to keep one post of TGT vacant till the disposal of the OA. In the circumstances of the case, it appears that while the applicant has submitted an advance copy to the respondents much before 5.2.1997 and another copy of the application duly forwarded by MCD has also been sent on 3.2.97 with "No Objection Certificate", the plea of the respondents that they have not received the application form routed through the competent authority is rejected.

5. In the result the application is allowed. The

respondents are directed to consider the application of the applicant for appointment to the post of TGT within a period of one month from the date of receipt of a copy of this order in accordance with law/Rules and instructions, with intimation to him.

O.A. is accordingly disposed of at the admission stage. No order as to costs.


(N. Sahu)
Member (A)


(Smt. Lakshmi Swaminathan)
Member (J)

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