

Central Administrative Tribunal  
Principal Bench: New Delhi

OA 287/97  
MA 2282/97

11

New Delhi this the 24<sup>th</sup> day of October 1997.

Hon'ble Dr Jose P. Verghese, Vice Chairman (J)  
Hon'ble Mr K.Muthukumar, Member (A)

Shri Hari Singh  
S/o Shri Dina Nath  
R/o H.No.E-94/B  
Gali No.3, South Anarkali  
Krishna Nagar  
Delhi - 110 051.

...Applicant.

(By advocate: Mr R.R. Rai)

Versus

1. Lt. Governor of Delhi  
through The Chief Secretary  
Govt.of NCT of Delhi  
Delhi.

2. The Director of Education  
Govt. of NCT of Delhi  
Old Secretariat, Delhi.

...Respondents.

(By advocate: Mrs Jyotsana Kaushik)

O R D E R

By Dr Jose P. Verghese, Vice Chairman (J)

Petitioner in this case had applied for the post of TGT (Maths) under SC category during 1994 recruitment under direct quota vacancies in response to the advertisement published in the relevant newspapers during the year. The respondents had earmarked certain marks and accordingly the petitioner had obtained 47 marks in accordance with the Marking Scheme. In view of the large number of candidates from amongst the SC community applied for the post, the cut-off mark for the SC candidates happened to be fixed at 47 and a few of the SC candidates obtained the cut-off marks of 47 and were given the offer of appointment and the petitioner who also obtained 47 marks could not get the offer of appointment for want of vacancy.


Respondents in their reply stated that even though the petitioner had obtained 47 marks as cut-off point, he could not be appointed since the date of birth of the petitioner was 10.1.1965 and none of the persons appointed were younger in age than the petitioner nor any person who has obtained less than 47 marks had been appointed and in the circumstances, no discrimination has been meted out to the petitioner. Therefore, this OA deserves to be dismissed, contend the respondents. 12


2. We have perused the records and find that the averments made by the respondents in their reply stand to be correct and the respondents had in fact considered all the persons belonging to the SC community with 47 marks and to the extent of vacancy available, selected similarly placed candidates in accordance with their age. That is to say, those who were older were preferred against those who were younger who obtained the same cut-off marks of 47. The criteria adopted to select the candidates with the same cut-off marks, in the absence of any challenge to the same, seems to be reasonable. Those petitioners whose date of birth was stated to be below 10.1.1965 could not appear in the list of those whom the offer of appointment was made.

3. At this stage, it was stated that in view of certain communications, many posts available and reserved for SC/ST should have been filled up from among the candidates who were available and eligible and at the same time who obtained the cut-off marks of 47. Since the petitioner during the 1994 examination had obtained 47 marks and in view of the statement from the petitioner

that there are yet more vacancies available in the category of SC community, the respondents are directed to consider the case of the petitioner who had obtained the cut-off marks of 47 which was the cut-off marks applicable to the candidates belonging to the SC community, and if it is found that an additional vacancy is still available either by mis-calculation or by any person who was duly offered and not joined the post, the same shall be offered to the petitioner within four weeks from the date of receipt of a copy of this order. In the event no such vacancy is found to be available, even then the respondents shall communicate the decision in this regard within the time stipulated to the petitioner. With this, this OA is disposed of. No order as to costs.

In view of the above orders, MA 2282/97 has become infructuous.

  
(K. Kutnukumar)  
Member (A)

  
(Dr. Jose P. Verghese)  
Vice Chairman (J)

aa.