



Central Administrative Tribunal Principal Bench, New Delhi

O.A. No. 2749/2017
M.A. No. 1011/2020

Through video conferencing

Tuesday, this the 22nd day of September, 2020

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)**

Priyanka Rawat
D/o Sh. Mohan Singh Rawat
R/o 54/D-1/Sector-11, Rohini, Delhi-110085
Aged about 30 years, Group C
(Candidate for the post of Speech Therapist)

... Applicant

(through Sh. Anmol Pandita)

Versus

1. Govt. of NCT of Delhi
Through its Chief Secretary
A-Wing, 5th Floor, Delhi Secretariat
I.P. Estate, New Delhi.
2. Delhi Subordinate Services Selection Board (DSSSB)
Through its Chairman
FC-18, Karkardooma Institutional Area, Delhi-92.
3. Department of Health and Family Welfare
Through its Secretary
(GNCT of Delhi)
9th Level, A-Wing, IP Extension
Delhi Secretariat, Delhi-110002.
4. Medical Superintendent
Sanjay Gandhi Memorial Hospital
(GNCT of Delhi)
Mangol Puri, Delhi-110083.

... Respondents

(through Sh. K.M. Singh)

O R D E R (ORAL)



Justice L. Narasimha Reddy:

Government of NCT of Delhi, the 1st respondent herein, issued a notification in the year 2014 for various posts in Delhi Administration, including the one of Speech Therapist, with Post Code No. 03/2014. The applicant, who is an OBC candidate, applied for the post. The written test was conducted and results thereof were published on 02.01.2016. The list of selected candidates was published on 06.01.2016 against two vacancies reserved for OBC category with names of two candidates, i.e., Upasana Verma (Roll No.12000175) and Shilpi Verma (Roll No.12000186). The applicant was shown at serial no. 1 in the waiting list.

2. The applicant contends that Shilpi Verma did not join the post despite repeated reminders, and ultimately, the user department had surrendered her dossier through a letter dated 09.06.2017. According to her, the resultant vacancy ought to have been filled with her.

3. This OA is filed with a prayer to direct the respondents to appoint the applicant as Speech Therapist with Post Code No. 03/14.



4. The respondents filed a counter affidavit stating that the life of the waiting list is only one year from the declaration of result and in the instant case, it expired on 05.01.2017. According to them, the possibility to appoint a person from the waiting list would arise, if only the selected candidate either did not join or has resigned within one year.

5. The applicant amended the O.A. by challenging the circular dated 13.06.2013, through which the 2nd respondent has framed the policy, particularly as regards maintenance of waiting list. It is pleaded that the very purpose of preparing the wait list is to ensure that the notified vacancies do not remain unfilled and there is absolutely no justification for restricting it to one year. Certain other grounds were also urged.

6. The respondents filed reply to the amended OA also. The applicant, in turn, filed rejoinders to both the replies. Reliance is placed upon order passed by this Tribunal in O.A. No. 3757/2017 dated 31.01.2020 passed by this Bench of the Tribunal, and the order of the Hon'ble High Court in **Government of NCT of Delhi v. Sibi Thomas** (W.P. (C) No. 5083/2020) decided on 07.08.2020.



7. We heard Mr. Anmol Pandita, learned counsel for applicant and Mr. K M Singh, learned counsel for respondents, at length, through video conferencing.

8. It is indeed unfortunate that the applicant, who was at Serial No.1 in the waiting list, could not be appointed on account of the delay on the part of the selected candidate, in communicating her decision whether or not to join the post.

9. Various particulars referred to above, are borne out by the record. The result of the written examination for the post was declared on 02.01.2016 and the list of selected candidates was published on 06.01.2016. As mentioned earlier, the applicant was the candidate at Serial No.1 in the waiting list under the OBC category.

10. It is not uncommon that the selecting agencies, such as Union Public Service Commission and State Public Service Commission, publish the waiting lists for various selections. The objective is to ensure that in case any candidate in the merit list fails or refuses to join, the vacancy can be filled up from those in the waiting list. However, to ensure that the uncertainty does not remain for a long time, spilling over the subsequent selections,



the life of the waiting list is generally stipulated as one year.

11. In its circular dated 13.06.2013, the 2nd respondent incorporated the following clause :-

“1. The DSSSB has decided to draw a reserve panel/waiting list upto the extent of 10% of the posts notified, in addition to the number of candidates selected as per the notified vacancies.

2. The reserve panel/waiting list shall be valid for a period of 1 year from the date of declaration of result and the vacancies arising due to non-acceptance of the offer of appointment, not joining the post after acceptance of appointment, the candidates not found eligible for appointment or due to resignation of selected candidates within one year of joining the post, shall be filled up from this reserve panel/waiting list.

3. This issue in accordance with the approval of Govt. of Delhi, as conveyed by Joint Secretary (Services III) Deptt. vide letter No. F. 16(13)/DSSSB/2007-S.III/1635 dated 31.05.2013.”

12. From perusal of this, it is evident that the life of the waiting list shall be one year and it can be operated to fill the vacancies that arose on account of the refusal to accept the offer, failure to join after acceptance of offer or resignation to the post, after joining it. The common feature of all these categories is that they must occur within one year from the date of publication of result. It is only then, that the waiting list can be operated. In other words, if the vacancy arises after expiry of one year from



the date of publication of results, the waiting list cannot be operated at all.

13. It is true that in O.A. No. 3717/2017, dealing with this very post, the Tribunal held that the period of one year must be reckoned from the date on which the selected candidate either fails or has refused to join the post. In W.P. (C) No. 5083/2020, filed against the said order, the Hon'ble High Court did not approve of such an approach. On facts, it was found that the vacancy arose within one year and accordingly, the direction issued in the O.A. was sustained, but the reasons were different. The relevant portion of the order in the Writ Petition reads as under :-

“5. However, keeping in view the fact that Ms. Deepti M., the successful candidate, had informed the Medical Superintendent, Lok Nayak Hospital, that she would not be accepting the offer of appointment and would not be joining the post vide letter dated 28th November, 2016 i.e. within one year of declaration of the result on 06th January, 2016, this Court is of the view that the vacancy arose within one year of the declaration of the result. Consequently, in the opinion of this Court, the petitioners should have offered the vacant post to the respondent as the vacancy arose within one year of declaration of the result in accordance with para 11 of the advertisement notice, as extracted in para 5 of the impugned order.

6. Accordingly, the present writ petition and application are dismissed and the order of the Central Administrative Tribunal is upheld, albeit on a different ground.”



14. The situation in the instant case is substantially different. In fact, the last of the reminders to the selected candidates was issued on 15.04.2017, which itself is beyond one year. Though challenge is made to the circular dated 13.06.2013, we do not find any basis to interfere with the same. It cannot be said that the second respondent does not have the power to regulate its own affairs or that the clauses contained in it are violative of any specific provisions of law.

15. We do not find any merit in the O.A. and the same is accordingly dismissed.

There shall be no orders as to costs.

(Pradeep Kumar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

September 22, 2020

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