



**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No. 687/2016

This the 18th day of January, 2021

(Through Video Conferencing)

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

Priyanka Sharma, age-33,
Group -C, Teacher,
Sub-recruitment,
W/o Sh. Rajnish Bhardwaj,
R/o H. No. 140, Sec-2, Rajinder Nagar-II RM,
Sahibabad, Ghaziabad (UP-201005).

... **Applicant**

(through Mr. U. Srivastava, Advocate)

Versus

1. Govt. of NCT Delhi,
Through,
The Chief Secretary,
Govt. of NCT of Delhi, Delhi Secretariat,
New Delhi.
2. The Delhi Subordinate Services Selection Board,
Through its Chairman Govt. of NCT of Delhi,
F-18, Karkardooma, Institutional Area, Delhi – 92.
3. The Director of Education,
Directorate of Education,
Delhi Admn., Old Secretariat, Delhi.

... **Respondents**

(through Mr. H. A. Khan, Advocate)

ORDER (Oral)**Mohd. Jamshed, Member (A):**

The applicant in the present OA applied for the post of Trained Graduate Teacher (TGT) (English) Female against Post Code (PC)-107/12 in terms of recruitment advertisement issued by the Delhi Subordinate Services Selection Board (DSSSB) in the year, 2012. Another advertisement was issued by the DSSSB in 2013 and the applicant also applied for TGT (English) Female. Thereafter, a rejection list of candidates against PC-05/13 was issued by the respondents containing the name of the applicant. The applicant was, however, issued an admit card against PC-107/12 only. A combined examination was held on 28.12.2014 for both Post Codes i.e. 107/12 and 05/13. The applicant secured 81.25 marks against PC-107/12 whereas the cut off marks for PC-107/12 was 85.5 marks and for PC-05/13, it was 88.5 marks. It is stated that subsequently, the respondents issued revised cut off marks for PC-05/13 reducing the same to 80 marks in Unreserved (UR) category.

2. The applicant made a representation on 18.01.2016 that her case should also be considered against the revised cut off for PC-05/13. The same was not considered by the respondents and the applicant being aggrieved by the action

of the respondents filed the present OA seeking relief in terms of a direction to the respondents to appoint her against PC-05/13.



3. The applicant contends that although she has applied against both the Post Codes i.e. 107/12 and 05/13 her candidature was rejected by the respondents for PC-05/13 indicating that she does not have requisite qualification as on closing date i.e. no Bachelors Degree and SAV Certificate. The applicant made a representation on 30.11.2015 indicating that she has a Bachelors Degree but she does not have the SAV Certificate as she was not working in the Government Sector. It was also indicated that her application against PC-107/12 was duly accepted and admit card was issued to her for appearing in the combined examination. She is aggrieved by the fact that as her application form was accepted her application for PC-05/13 should not have been rejected. She submits that she appeared in the examination for PC-107/12 for TGT (English) Female and that as per the result declared by the DSSSB for TGT (English) Female for PC-107/12, she secured 81.25 marks. Although these marks were below the cut off marks for PC-107/12, she contends that as per her information, the cut off marks for PC-05/13 were subsequently revised to 80 marks thus making her eligible to be considered for selection

against PC-05/13. Learned counsel for the applicant has relied upon OA No. 1593/2016 decided on 14.02.2017 and OA No. 4583/2014 and batch decided on 30.10.2015.



4. Counter affidavit has been filed by the respondents opposing the OA. It is indicated that her application form against PC-05/13 was rejected being invalid and she was issued admit card for PC-107/12 only. The marks obtained by her were much below the cut off marks for PC-107/12 and, therefore, she was not selected for the same. Her application for PC-05/13 was rejected as she did not provide the necessary information in Column No. 05 i.e. Category/Community and Column No. 13 i.e. Essential Qualification of the application form by darkening the required circles. Accordingly, her candidature for PC-05/13 was rejected. Learned counsel for the respondents relied upon judgment in OA No. 4572/2014 dated 12.08.2016.

5. We heard Mr. U. Srivastava, learned counsel for the applicant and Mr. H.A. khan, learned counsel for the respondents through video conferencing.

6. The DSSSB issued an advertisement in the year, 2012 (PC-107/12) for recruitment to the post of TGT (English) Female. She applied against PC-107/12. In the year 2013, again an advertisement was issued by the DSSSB.



She also applied against the PC-05/13 for TGT (English) Female. The respondents issued a rejection list indicating the name of the applicant against the PC-05/13. It was indicated that she does not have the requisite qualification i.e. no Bachelors Degree and no SAV Certificate as per her application form. The applicant made a representation and supplied the relevant documents on 30.11.2015. The applicant was issued an admit card for appearing in the examination only against PC-107/12 and not against PC-05/13 in view of the rejection list issued earlier. The applicant claims that if her candidature was accepted against PC-107/12 with same qualification, how can the same be rejected against PC-05/13. She submits that she posses the requisite qualification i.e. a Bachelors Degree. The combined examination was held on 28.12.2014 and she obtained 81.25 marks against PC-107/12. Her result for PC-05/13 was not declared as she was not considered for the same due to invalid application form. She obtained 81.25 marks against PC-107/12 which were much below the cut off of 85.5 marks. She, however, claims that against PC-05/13, the cut off marks were subsequently revised to 80 marks and, therefore, she should be considered against PC- 05/13.

7. The application form clearly provides for the guidelines for filling the application form which basically

consist of darkening the relevant circles. In the instructions "How to Apply" it has been clearly indicated that incomplete application forms shall become invalid and shall be rejected.

The applicant's OMR application form for PC-05/13 was rejected in view of the fact that she does not possess the essential qualification required for the post. She did not provide the necessary information in Column No. 05 i.e.



Category/Community and Column No. 13 i.e. Essential Qualification in the application form by darkening the relevant circles as prescribed and, therefore, her application form became invalid and was accordingly rejected by the respondents. It is a fact that thousands of candidates appear in these examinations which requires online submissions. The OMR application form/sheets have to be very carefully filled as per the instructions. Detailed guidelines are also furnished by the respondents in this behalf. Despite the instructions, the applicant failed to fill up the application form correctly for PC-05/13 and, therefore, her application became invalid. Learned counsel for the applicant has relied upon OA No. 1593/2016 decided on 14.02.2017 and OA No. 4583/2014 and batch decided on 30.10.2015. The facts of both these OAs are different and, therefore, are not applicable to the present OA. In the present case, the applicant participated in the examination against

PC-107/12. The rejection was against Post Code 05/13 as her application form had already been rejected and no admit card was issued to her to appear in the same. She was accordingly evaluated for PC-107/12 and, therefore, her claim for considering her against PC-05/13 for which her application form itself had been rejected and no admit card was issued is not tenable.



8. At the same time, it would be worthwhile taking note of some of the latest judgments on the subject. Hon'ble Delhi High Court in **Sandeep Kumar Yadav & Ors. Vs. UOI & Ors.**, WP (C) No. 8318/2017 and batch dated 06.03.2018 held as under:-

18. We are therefore of the opinion that if the respondents are called upon to accept incomplete OMR sheets of the petitioners, it shall bring the entire examination process to a grinding halt which is not in the larger public interest. More so, when other candidates who have been disqualified by the respondents for the same reason, have reconciled themselves to their fate being mindful of the "*Instructions for Marking*" printed in the OMR sheets, and conscious of the fact that they had committed mistakes in fulfilling the procedural formalities prescribed by the BSF at the time of filling up the OMR sheets. The petitioners herein cannot be permitted to steal a march over them merely because they have approached the court for relief and that too belatedly, whereas the others have not.

9. In a subsequent judgment dated 13.03.2018 in **Lalit Kumar Yadav vs Union Of India & Anr.**, W.P. (C) No. 7823/2017, the Hon'ble High Court held as under:-

"3. It is the contention of the counsel for the petitioner that that merely because the petitioner had committed a technical

error cannot be a ground to non-suit him particularly when he had approached the Court well in time.

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14. A glance at the aforesaid instructions issued to the candidates for purposes of marking the OMR sheets shows that explicit directions were given to the candidates to fill and shade their names, roll numbers, date of birth, mode, religion, category, question booklet number & code and sex. All the candidates were informed that the aforesaid information would be essential to evaluate their answer sheets and if the circle as printed against each category is not shaded correctly, then a candidate shall be declared as failed and he would be responsible for such a mistake. The second page of the OMR sheet, on which "Instructions for Marking" were printed, is prefaced with a certificate required to be signed by the candidate declaring *inter alia* that he had read and understood the instructions set out down below the sheet.

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17. Another consideration that has weighed with this court for declining the request of the petitioners is that not only had the entire process of the examination concluded by the time they had approached the court for relief, if any relief is granted to any of them at this belated stage, it would have a cascading effect as other similarly placed candidates shall start knocking at the doors of the court asking for similar relief, which is impermissible.

18. We are therefore of the opinion that if the respondents are called upon to accept incomplete OMR sheets of the petitioners, it shall bring the entire examination process to a grinding halt which is not in the larger public interest. More so, when other candidates who have been disqualified by the respondents for the same reason, have reconciled themselves to their fate being mindful of the "Instructions for Marking" printed in the OMR sheets, and conscious of the fact that they had committed mistakes in fulfilling the procedural formalities prescribed by the BSF at the time of filling up the OMR sheets. The petitioners herein cannot be permitted to steal a march over them merely because they have approached the court for relief and that too belatedly, whereas the others have not."

10. In a subsequent judgment, the Hon'ble Apex Court has also held that instructions issued for selections have to be complied with. In **The State Of Tamil Nadu vs G.**

Hemalathaa, CA No. 6669/2019 dated 28.08.2019, the

Hon'ble Apex Court held as under:-

“7. We have given our anxious consideration to the submissions made by the learned Senior Counsel for the Respondent. The Instructions issued by the Commission are mandatory, having the force of law and they have to be strictly complied with. Strict adherence to the terms and conditions of the Instructions is of paramount importance. The High Court in exercise of powers under Article 226 of the Constitution cannot modify/relax the Instructions issued by the Commission.

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9. In spite of the finding that there was no adherence to the Instructions, the High Court granted the relief, ignoring the mandatory nature of the Instructions. It cannot be said *M. Vennila v. Tamil Nadu Public Service Commission*, (2006) 3 Mad. LJ 376 (1999) 2 SCC 635 (2003) 6 SCC 545 that such exercise of discretion should be affirmed by us, especially when such direction is in the teeth of the Instructions which are binding on the candidates taking the examinations.”

11. In a similar case decided by this Tribunal in **Smt.**

Neetu Yadav vs. DSSSB & Ors., OA No. 2949/2019 decided

on 11.10.2019, this Tribunal held as under:-

“4. There is no dispute that the applicant took part in the written test held on 08.09.2018 with Roll No. 2660016672. Since, the question paper is in OMR sheet the evaluation is done by computer. In the first page of the OMR sheet, the candidates are required to not only write their Roll Number but also to bubble i.e. round off the circles underneath each of the numbers. The applicant rounded off the circle for all the numbers, but committed a mistake as regards the last number. She has round off circle for Number ‘1’, instead of the one for ‘2’. Obviously, this was the Roll Number of another candidate. The result is that either her paper was not evaluated or the evaluation was of Roll No. 2660016671 instead of 2660016672. The mistake, if at all, was on the part of the applicant and the same cannot be helped at all.”

12. In view of the above mentioned, the claim of the

applicant that her invalid application should have been considered as valid and the marks obtained by her against

the PC-107/12 should also be considered for selection against PC-05/13 is simply not tenable. Her application form for PC-05/13 had been correctly declared as invalid and rejected. It is also a fact that in catena of judgments of the Hon'ble Apex Court and Hon'ble High Courts, it has been ruled that in the teeth of clear instructions prescribed for filling up of application form, the candidates cannot take the plea of their applications being rejected on mere technical grounds or by simple mistakes. It is needless to mention that the application form submitted on OMR sheets have to be very carefully and properly filled as the same is examined by Optical Mark Reader and invalid applications are rejected. It is expected that the candidates take due care in filling up their application form. The applicant herein did fill up the application form for PC-107/12 correctly, but failed to do so for PC-05/13, leaving even Essential Qualification blank causing the same to become invalid and rejected. The plea that marks obtained by her against PC-107/12 should also be considered against PC-05/13 for which she was neither a candidate and nor was issued an admit card has no merit.



13. We, therefore, do not find any merit in the OA. It is, accordingly, dismissed. There shall be no order as to costs.



(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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