



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA No.243/2021

This the 8th day of July, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Akhand Pratap Singh,
S/o Shri Balbir Singh,
R/o Kh. No.13/10 and 13/1,
H.No.13 UGF,
Gali No.13, Bhagat Colony, West Sant Nagar,
Burari, Delhi-110084.
Aged about 38 years

... Applicant

(By Advocate: Mr. Ajesh Luthra)

Versus

1. GNCT of Delhi
Through Chief Secretary,
5th Floor, Delhi Sachivalaya,
I.P.Estate, New Delhi.
2. Delhi Subordinate Services Selection Board,
Through Chairman,
F-18, Karkardooma Institutional Area,
Delhi-110092.
3. South Delhi Municipal Corporation,
Through its Commissioner,
Dr. S.P.M. Civic Centre, Minto Road,
New Delhi-110002.
4. North Delhi Municipal Corporation,
Through its Commissioner,
4th floor, Dr. S.P.M. Civic Centre,
Minto Road,
New Delhi-110002.

... Respondents

(By Advocates: Mr. Anuj Kr. Sharma, Mr. RK Jain, Ms. Esha Mazumdar, Mr. D.S.Mahendru)



OR D E R (ORAL)

Justice L. Narasimha Reddy:

The Delhi Subordinate Services Selection Board (Board), respondent no.2 herein, issued a notification in the year 2013 for selection to six posts of Assistant Law Officer, (ALO) to be appointed in the Municipal Corporations of Delhi. One of the posts was reserved in favour of Physically Handicapped Category (PH). The applicant was one of the candidates under that category. A written test comprising of Tier-I and Tier-II was held and a short list of the candidates, who cleared the same, was published on 02.11.2017. The name of the applicant figured therein. However, in the final result published on 01.06.2018, the applicant was shown at SI. No.2 in the PH category, and one Mr. Neel Mani was at SI. No.1.

2. The applicant contends that Mr. Neel Mani did not join the post on account of the fact that he was selected in CBI. It is stated that the applicant submitted a representation on 15.04.2019 with a request to consider his case for appointment against the available vacancy. Correspondences were also ensued among the applicant, NDMC, SDMC and the Board, i.e. respondent no.2. The Board refused to accede to the request of the applicant as well as the Corporations, on the

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ground that the vacancy lapsed on 31.05.2019 in terms of Clause 11 of the advertisement. It is in this background, that the applicant filed this OA with a prayer to direct the respondents to consider his case for appointment to the post of ALO, with Post Code No. 47/2013.

3. The applicant contends that he was placed at Sl. No.2 in the selection list and once the candidate at Sl. No.1 did not join, he is entitled to be considered. It is also stated that the selection process was spread over 6 to 7 years and when he is at the verge of selection, the respondents are trying to deny him the benefit of selection.

4. The respondents filed separate counter affidavits. The Board contends that the selection process is governed by the various conditions stipulated in the notification itself, and the waiting list prepared for this purpose has elapsed on expiry of one year. They contend that the very requisition for the dossier of the next candidate was received from the Municipal Corporation on 03.06.2019 and by that time, the waiting list has lapsed.

5. Respondents No.3 and 4 filed their separate counter affidavits which in a way support the plea of the applicant.

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6. Today, we heard Mr. Ajesh Luthra, learned counsel for the applicant, Mr. Anuj Kr. Sharma, learned counsel for the 2nd respondent – DSSSB, Mr. R.K. Jain, learned counsel for 3rd respondent and Mr. D.S. Mahendru, learned counsel for the 4th respondent.

7. The issue is in a very narrow compass. The notification was issued in the year 2013, and the selection as such has taken place only in the year 2019. The applicant was a candidate under PH category and he was placed at SI. No.2 in the merit list. Since only one post was available, he was put in the waiting list. Clause 11 of the advertisement reads as under:-

“11. The DSSSB shall 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. The reserve panel/waiting list shall be valid for a period of one 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 candidate 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.”

From this, it is evident that the waiting list would be in operation for a period of one year. In the instant case, the developments took place almost as flash points. The selected candidate, namely Mr. Neel Mani was issued an offer of appointment sometime in January, 2019. The Corporation

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went on writing to the selected candidate to report to duty.

The final notice was issued on 27.05.2019 and he was informed that if he does not join within three days, his appointment shall be deemed to have been withdrawn.

Immediately thereafter, the 4th respondent forwarded the dossier of Mr. Neel Mani to 3rd respondent, for onward transmission to the Board. The formal cancellation of the candidature was done only on 31.05.2019.

8. If one takes into account, the very objective underlying the preparation and maintenance of wait list, it is only to avoid the possibility of the post remaining vacant even after the selection process was concluded. The selecting agency has to make huge efforts to filter the candidates and then publish the select list. If for any reason, a selected candidates do not join, the looser will not be just the candidate or the selecting agency, but the user department, and thereby public at large. Once the selection process in this case was spread over seven years, counting of a day this way or that way should not make much difference, particularly when the applicant is a candidate with physical disability. We are of the view that the existing vacancy of the post of ALO reserved in favour of PH category can be offered to the applicant, who is next in the merit.

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9. We, therefore, allow the OA and direct the respondents to consider the case of the applicant for appointment as ALO against the vacancy reserved in favour of PH category after due verification, by treating that the wait list was alive, when the requisition was received. On being appointed, the applicant shall hold the office prospectively, without any benefit anterior to the date of appointment. The exercise in this behalf shall be completed within a period of six weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

Sunita/lg/pj