

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



**OA No. 1509/2019
MA No. 3965/2019**

This the 06th day of May, 2021

(Through Video Conferencing)

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

Ravi Kumar, aged 40 years
R/o KG-1, 543, Vikaspuri
New Delhi-110018
Ph-9910009728

... Applicant

(Applicant in person)

Versus

1. The Chairman, CBSE
(Central Board of Secondary Education)
Shiksha Kendra, Preet Vihar
Delhi-110092.
2. The Secretary, CBSE
(Central Board of Secondary Education)
Shiksha Kendra, Preet Vihar, Delhi-110092.
3. Ministry of Human Resource & Development
Represented by The Secretary
Dept. of School Education, Ministry of HRD
Shastri Bhawan, Delhi-110001.
4. Mr. Ram Veer, Assistant Secretary (CBSE)
R/o House No. 441, Street No. 9
Village Jagatpur, Post Office Burari
Delhi-110084.

And

Mr. Ram Veer, Assistant Secretary
Flat No. 300-C, K.D. Enclave, Jilika Path
Panjabari, Guhawati, Assam-781037. ... Respondents

(By Advocate : Sh. Divyakant Lohati for R. Nos. 1 and 2 and Sh. S.N. Verma for R. No. 3 and Sh. Ram Veer, R.No. 4)



ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :

The Central Board of Secondary Education (CBSE), the first respondent herein, issued notification on 08.02.2014 inviting applications to the post of Assistant Secretary. One post was reserved in favour of SC candidates. The applicant responded to the notification. He states that he has done MBA from the Institute of Management, Khozikode, and passed in first division, apart from holding other qualifications. A written test was conducted as a part of selection process. The applicant was awarded 75 marks. The fourth respondent, another candidate, belonging to SC category, secured 66 marks. The process involved conducting of interview for 20 marks. On 19.03.2015, the results were declared and the fourth respondent was selected against the vacancy reserved for SC category.

2. Feeling aggrieved by his non-selection, the applicant filed OA No. 2205/2015. It was dismissed by this Tribunal on 25.07.2018. Aggrieved by that, the applicant filed WP (C) No. 8453/2018 before the Hon'ble High Court of Delhi. During the course of hearing of the Writ Petition, the Hon'ble High Court called for the records pertaining to the interview of the applicant, on the one hand, and fourth respondent, on the other hand, and expressed the view that it was not conducted in a proper manner. The result of that interview was set aside and the respondents were directed to constitute another

Item No. 18



Board, to interview the applicant and the fourth respondent even while keeping the result of other candidates intact. In the subsequent interview so conducted, the applicant is said to have been awarded 6 marks, whereas the fourth respondent was awarded 15 marks. That led to a situation where the aggregate of marks in the written test and interview of the applicant and the fourth respondent were equal i.e.,

81. By taking recourse to tie breaker, the first respondent, CBSE, selected the fourth respondent and appointed him. After verifying the result in the second interview, the Hon'ble High Court passed an order on 09.04.2019, leaving it open to the applicant to pursue the remedy before the Tribunal. Accordingly, the present OA is filed.

3. The applicant contends that the interview conducted for the second time was also not in accordance with law and the apprehensions he expressed about the first interview were very much present in the second interview also. Various other contentions are also raised.

4. On behalf of respondents 2 and 3 a counter affidavit is filed. It is stated that the selection was made strictly in accordance with law and the various allegations made by the applicant as to manipulation or arbitrariness are without any basis.

Item No. 18



5. The 4th respondent has also filed separate counter affidavit stating that his selection is not vitiated in any manner whatsoever.

6. Today we heard the applicant, who argued his case in person, Sh. Divyakant Lohati, learned counsel for Respondent Nos. 1 and 2 and Sh. S.N. Verma, learned counsel for respondent No. 3.

7. This is the second round of litigation initiated by the applicant in connection with the selection to the post of Assistant Secretary in the first respondent organization. It started in the year 2014, and the grievance of the applicant still subsists. The basic facts are furnished in the preceding paragraphs. The prayer in the OA reads as under:

“(i) Set aside and quash the interview process dated 22.03.19 conducted by CBSE qua petitioner and respondent no.4 and; grant final appointment to applicant or
 (ii) pass directions for conduct of an interview for applicant and respondent no. 4 by an independent body like UPSC, without disclosing the case details etc., and
 (iii) prohibit respondents or any of its officers from corresponding or interacting with such independent body as decided by this Hon’ble Tribunal in this case, and
 (iv) direct CBSE to furnish copy of bio-date of applicant and respondent no. 4 as submitted in 2014 for consideration of the interview by the independent body, and
 (v) disallow any person or representative from the respondent CBSE or Ministry of HRD or any other affiliated body to be part of the interview panel, and
 (vi) direct the interviewing body to publicly publish and declare the detailed results of the interview immediately after the interview without any prior interaction or revelation of results to any other agency.”



8. The applicant wants the interview conducted for him and the fourth respondents on 22.03.2019 to be ignored and an independent Board to be constituted to interview them, duly taking into account reliefs indicated in the prayer.

9. In the earlier round of litigation, the applicant was not successful before the Tribunal. The Hon'ble High Court of Delhi had intervened and called for the record pertaining to the interview of the applicant and the fourth respondent. A detailed order was passed on 09.01.2019 observing that the marks secured by the applicant and the fourth respondent were very much before the interview committee and thereby the entire process was vitiated. Paragraph 10 of the order reads as under:

“ 10. We direct that the interview process should be undertaken qua the petitioner and respondent No. 4 afresh with the constitution of a completely fresh interview Board. Before the interview board, the marks obtained in the written examination, either by the petitioner or by respondent no. 4, either out of 100, or with 80 per cent weightage, should not be disclosed. The interview board should hold the interview and award marks independently without, in any manner, being influenced by any other consideration. On the basis of the marks awarded, the fresh result be compiled in respect of the one post of the one post of Assistant Secretary, which is reserved for the SC category candidates. In case, the petitioner is found to be successful, he shall be offered the said post. However, it shall be open to the respondents to adjust respondent No. 4 against any other post, if the same is available or created. In that eventuality, the petitioner shall be entitled to notional seniority from the date when respondent No. 4 was appointed to the post of Assistant Secretary. However, he shall not be entitled to any back wages.”

Item No. 18



10. In compliance with the same, a separate interview Board was constituted. The Hon'ble High Court verified the result thereof, and on 09.04.2019, the following order was passed:

“We had occasion to see respondent No. 4 in Court, since he was present on the last occasion. The petitioner, of course, has been appearing in person his cases, including the present one. We are nobody to judge the relative competence of the two candidates. However, we would like to observe that looking to the manner in which the two candidates have been marked by the Interview Board, the doubts raised by the petitioner on the independence of the interview board cannot be brushed aside lightly.

The result produced in sealed cover has been returned to learned counsel for the respondent. We leave it open to the petitioner to agitate his rights, if any, in any other proceedings.

The petition stands disposed of in the aforesaid terms.”

Except expressing its displeasure about the outcome of the interview, the Hon'ble High Court did not point out any illegality or infirmity in the interview process.

11. If one takes into account the prayer of the applicant, it emerges that whenever a candidate is not selected or is not satisfied with the outcome, he can keep on insisting that the Board be constituted according to his own wishes. The law is fairly well settled in this behalf. The selecting agencies are conferred with the power to make selection according to the relevant parameters and judicial review into the outcome of such interviews, be it for direct recruitment or for promotion, is highly restricted. It is only when specific allegations of bias or malafide are made, that a possibility may exist for the Court to interfere in case it is satisfied with the veracity of the allegations. The

Item No. 18



applicant has already been shown indulgence by the Hon'ble High Court by constituting a separate and independent Board for interviewing him and the fourth respondent. The interview was conducted for the second time and the same result ensured. If the prayer of the applicant is granted, the process needs to be continued till the applicant gets selected.

12. The applicant referred the educational qualifications possessed by him on the one hand and the fourth respondent on the other hand. If qualifications alone are taken as a yardstick, it would not at all be safe. The very purpose of conducting a written test and interview is to ensure that the candidates, who would be in a position to serve the organization, are selected. Many a time, the candidate may be good in academics, but on other parameters, he may be lagging behind. On the other hand, a person who is just average academically, may be found to be well suited for the organization. The Courts cannot go into that.

13. We do not find any merit in the OA and, accordingly, the same is dismissed. Pending MA also stands disposed of. There shall be no order as to costs.

(Tarun Shridhar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/vb/ns/dsn