

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 290/00069/15

RESERVED ON: 01.06.2016

Jodhpur, this the ^{ed}3 day of June, 2016

CORAM

Hon'ble Mr. U.Sarathchandran, Judicial Member

Hon'ble Ms. Praveen Mahajan, Administrative Member

Shiv Lal Choudhary s/o Sh. Jora Ram Choudhary, aged 48 years,
r/o 8-A-24, Kudi Bhagtasni Housing Board, Jodhpur (Posted as
PGT (Comm.), KV No.2, (AFS), Jodhpur

.....Applicant

By Advocate: Mr. K.K.Shah

Versus

1. Kendriya Vidyalaya Sangthan through Commissioner, 18, Institutional Area, Saheed Jeet Singh Marg, New Delhi-110 016.
2. Dy. Commissioner, Kendriya Vidyalaya Sangthan (Regional Office), 92, Gandhi Nagar Marg, Bajaj Nagar, Jaipur
3. Chairman and Members of Interview Board through Commissioner, 18, Institutional Area, Saheed Jeet Singh Marg, New Delhi- 110016.

.....Respondents

By Advocate : None present

ORDER

Per Ms. Praveen Mahajan, Administrative Member

The applicant approached this Tribunal challenging the select list dated 13.02.2015. In relif, he has prayed that :-

"In view of above submissions, the applicant most

be allowed with costs and by issuance of an appropriate order or direction the impugned select list dt. 13.02.2015 (Annex. A/1) qua the OBC candidates may kindly be quashed and set aside. It is further prayed that the entire record of the interview board may kindly be called for and the applicant be directed to be considered as select candidate in OBC category and given appointment as Principal From the date others in OBC category have been given appointment."

2. Brief facts of the case, as stated by the applicant, are that the respondents issued advertisement in August, 2014 inviting applications for recruitment to officers' cadre and non-teaching posts for the year 2012-13 and 2013-14. The applicant applied for the post of Principal as OBC candidate and passed the written examination. He was placed in the merit of OBC candidates at Sl.No.2. The candidate at Sl.No.2 of the OBC list was subsequently declared ineligible and resultantly, the applicant became the topper in the OBC category. The result was declared for 402 candidates of various categories in which 98 OBC candidates were declared pass. The written examination was for 140 marks and the applicant scored 106 marks out of 140 marks which is 13 marks more than the maximum marks obtained by the OBC category candidates. The applicant was hopeful for getting selected, but in the select list dated 13.02.2015 (Ann.A/1) his name did not appear. It is stated by him that a lot of subjectivity has been effected in the interview and the applicant has been awarded very poor marks inspite of doing well in the interview.

Shayin

Hence, aggrieved of his non-selection for the post of Principal vide impugned order dated 13.02 2015 (Ann.A/1), the applicant has approached this Tribunal seeking the reliefs as extracted above.

3. In reply to the OA the respondents have submitted that the applicant applied 'online' for the post of Principal in response to the advertisement. On the basis of the marks obtained in the written examination and as per vacancies available, the candidates were shortlisted for interview. The applicant appeared for interview on 21.01.2015 since he was found eligible to be interviewed under OBC category. He scored 106 marks in the written examination and 25 marks out of 60, in the interview. As per the scheme of the examination and selection process, weightage of 70:30 has to be given for written examination and interview respectively while preparing final merit list. The applicant scored 65.50 marks out of 100 after giving the prescribed weightage of written examination and interview. The respondents have produced documents showing category-wise cut-off marks for final selected candidates as Ann.R/2. The applicant scored 65.50 marks out of 100 marks which is below the cut-off marks of the selected candidates i.e. 66.50 marks. Therefore, the claim of the applicant being meritorious has been denied by the respondents. It is further stated that the

Dehagan

respondents have prepared a main panel for the post of Principal under OBC category for 36 candidates against 38 vacancies. In all, 6 vacancies including 2 vacancies, in OBC category for the post of Principal, have been kept vacant as per orders of the Hon'ble Tribunal. The performance in written examination cannot be equated with that of performance in interview also. Being meritorious candidate, on self-proclamation, will not bestow upon the applicant the right to be selected. The respondents have taken umbrage and denied the allegation of the applicant regarding "corruption" in awarding the marks in the interview as baseless and without any factual foundation. They aver that the recruitment process in KVS was transparent, and there is no room for any favouritism or nepotism in the selection process. The other contentions advanced in the OA have also been denied by the respondents who pray that the OA to be dismissed.

4. Heard both sides and perused the material available on record.

5. On going through the facts of the case, we find that the grievance of the applicant in the OA No.290/00069/15 was restricted to not getting selected to the post of Principal on account of being awarded less marks (25 out of 60) as against his expectation of having performed much better. This presumption

examination and securing 106 out of 140 marks. On account of this, the applicant, alleging bias qua him, requested for quashing of (Ann.A/1), the list of successful candidates for the post of Principal for the year 2012-13 and 2013-14 where he did not figure. He requested the Tribunal to call for the record of the Interview Board to look into the procedure awarded for giving marks and to keep one post vacant for him since, only 36 out of 38 candidates in the OBC category have been appointed.

6. The respondents' reply has dealt with the alleged prejudice of the Interview Board elaborately. We are of the view that the allegation of bias, merely on the basis of applicant's securing less marks is not good enough reason to interfere with the decision of the Interview Board.

7. Interestingly, however, in the additional affidavit filed by the applicant, another course of action, quite different from the one pleaded in the OA, has been suggested. It has been informed that

Dehgo the respondents made a combined merit list of candidates. Amongst the OBC candidates, the applicant's name is third. The 2 OBC candidates, placed above the applicant, are Shri Mukesh Kumar Verma at Sl.No.206 with 66% marks, and Shri Ambrish Kumar Gupta placed at SL.No.210 also with 66% marks (Ann.A/6). The applicant himself is at Sl.No.212, with 65.50% marks.

8. The applicant further submits that a total of 72 general category candidates have been given appointment. From amongst the said 72 candidates, 2 candidates at Sl.No.65 and 67 namely Shri Ram Chandra Bhuria and Shri Suresh Kumar are OBC candidates who have secured 75% marks. He has further mentioned in the additional affidavit that Shri Ram Chandra Bhuria who is also OBC candidate secured 75 % marks should have been treated as general category candidate since he got 75% marks whereas the cut-off marks of general category were 74.50 %. Alongwith him, one more OBC candidate, Shri Suresh Kumar also secured 75% marks (Sl.No.67). In short, the pleading of the applicant is that if Shri Ram Chandra Bhuria and Shri Suresh Kumar, on account of marks obtained by them, are allowed to be placed in the general category, then 2 OBC candidates named earlier i.e. Shri Mukesh Kumar Verma and Shri Ambrish Kumar Gupta would also move upward paving way for the applicant, along with one more OBC candidate junior to him to get appointed against the OBC vacancies (2 existing and 2 created by allowing Shri Ram Chandra Bhuria and Shri Suresh Kumar to be adjusted against the general category vacancies).

9. We find that the applicant has now digressed from his original request of seeking rectification of his marks obtained in the interview to suggesting an absolutely different mode of action.

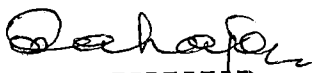
We are not inclined to accede to his request regarding recalling the interview record etc. and delve into the alleged allegation which seems to be devoid of substance in the absence of any concrete evidence. We have no inputs from the respondents on the additional affidavit filed by the applicant. The second course of action suggested by the applicant though sounds attractive, but the same has to be looked into by the respondent department. It is not for the Tribunal to sit in judgment as to why certain number of vacancies were kept vacant in the general, as well as in OBC categories, specially when both the applicant and respondents have stated that two vacancies in general, and some, in OBC category were kept vacant on account of different Tribunals' orders. We leave it to the discretion of the department to examine the said contention of the applicant to see if aforesaid mode of upward mobility of the applicant and 4 other candidates (all of OBC category) as suggested by him is feasible and within the framework of law.

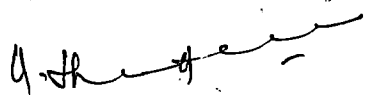
Dahaj 10. The contentions raised by the applicant in the additional affidavit have not been replied to by the respondents despite opportunity and nobody appeared on behalf of the respondents on 01.06.2016 when the case was finally heard. Hence, in view of no further inputs, we have no option but to decide the case on the

arguments advanced by the learned counsel for the applicant and on the basis of facts already on record.

11. We, however, direct the respondents to treat the additional affidavit as a representation of the applicant and to decide the same within a span of 30 days by way of reasoned and speaking order.

12. The OA stands disposed of in above terms. No costs.


(PRAVEEN MAHAJAN)
Administrative Member


(U.SARATHCHANDRAN)
Judicial Member

R/