

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

CP No.223/2015

IN

OA No. 458/2015

This the 1st day of September, 2015

Hon'ble Shri Sudhir Kumar, Member (A)

Hon'ble Shri Raj Vir Sharma, Member(J)

Shri Ashok Kumar S/o Shri Dharam Singh
R/o Village and Post Office Chawla,
Near Pole No.37, New Delhi-110071.
(By Advocate: Shri K.P.Gupta)

...Petitioner.

Versus

Shri A.K. Garg,
Secretary
Delhi Subordinate Services Selection Board (DSSSB)
FC-18, Institutional Area,
Karkardooma Delhi-110092.
(By Advocate: Ms.Rashmi Chopra)

...Respondent.

Order (oral)

Per Sudhir Kumar, Member (A)

Heard the learned counsel for the petitioner and the learned counsel for the respondents. While disposing of the OA No.458/2015 on 04.02.2015, it was pointed out that the OA was premature, and the same was not even admitted under Section 19 of the Administrative Tribunals Act, 1985, but the Bench had that day passed the following order:

"5. Having regard to the facts and submissions made by the learned counsel, although the OA is at present, premature to be admitted under Section 19 of the Administrative Tribunals Act, 1985, yet, in view of the nature of the grievance of the applicant and the paucity of the time, respondents are directed to ensure that a

decision is taken on the aforementioned pending representations of the applicant in conformity with the rules and instructions on the subject. Such decision shall be taken within a period of four weeks from today under intimation to the applicant.

6. OA is disposed of with afore-noted directions. No costs."

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(2)

2. Thus, it is seen that the OA was not even admitted, and the case was not at all decided on merits. Also, no positive direction had been given to any of the respondents, to do a particular thing, in a particular manner. However, learned counsel for the petitioner still alleges that the respondent/alleged contemnor is in contempt of this Tribunal.

3. It is seen that the respondent-department has since passed an order dated 05.05.2015 stating as follows:

"CCI Branch

Subject:-Decision on representation of Sh. Ashok Kumar & compliance of the order of the Learned CAT in O.A.No.458/2015.

Please refer to the subject on the order referred above. In compliance with the order of the learned CAT, your representation was examined & consequent upon corroborating the facts with the application form it was found that no document of having English passed was provided with the application form and nothing in this regard was even mentioned of the application form. Thus the cancellation of the candidature of the petitioner was justified at the time of verification of dossiers.

As per the communication, you could not attach the relevant documents as it was not a requisite condition previously but later on you provided the attested photocopy of your Secondary exam mark sheet reflecting your qualification in English. It is to inform you that clarification on the matter of having English passed is sought from the user department i.e. MCD & the response is still awaited. Therefore, your case is kept pending & will be processed after the receipt of clarification from MCD.

Dy. Secretary (CC-I)

Shri Ashok Kumar
S/o Shri Dharam Singh
R/o Village and Post Office Chawla,
Near Pole No.37, New Delhi-110071.

F(i)(100)/DSSSB/CC-I/Misc./Pt.
Dated:05.05.2015"

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(3)

4. It is clear that in the absence of any positive direction on merits of the case, after hearing the learned counsel for both the sides, to do any particular thing, in a particular manner, no case of contempt can be made out. The respondents themselves have still not closed the matter of the petitioner, and are awaiting the response of the MCD. Thus, there being no contumacious act on the part of the respondent, the CP is closed, and the notice issued is discharged.

(Raj Vir Sharma)
Member (J)

(Sudhir Kumar)
Member (A)

/kdr/