

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
C.P.NO.548 OF 2016

(In OA 203/15)

New Delhi, this the 27th day of March, 2017

CORAM:

**HON'BLE SHRI SHEKHAR AGARWAL, ADMINISTRATIVE MEMBER
AND**

HON'BLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER

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Pushpa Devi,
D/o Sh.Chhatar Singh Yadav,
R/o H.No.B-3/34, Meet Nagar,
P.O-Gokal Puri,
Delhi 110094

í í .Applicant/Petitioner

(By Advocate: Mr.Sachin Kumar Jain)

Vs.

1. Rajesh Bhatia,
Secretary/Dy.Secretary,
Delhi Subordinate Service Selection Board,
FC-18, Institutional Area,
Karkardooma, Delhi 110092
 2. Saumaya Gupta,
Director,
Govt. of NCT, Delhi,
Directorate of Education,
Old Pattachar Building, Lucknow Road,
Timar Pur, Delhi 110054
- í í í Respondents/Contemnors

(By Advocate: Mr.K.M.Singh)

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ORDER**Per Raj Vir Sharma, Member(J):**

We have perused the records, and have heard Mr.Sachin Kumar Jain, the learned counsel appearing for the applicant-petitioner, and Mr.K.M.Singh, the learned counsel appearing for the respondent-contemnors.

2. This Contempt Petition (CP) has been filed by petitioner Ms. Pushpa Devi (applicant of OA No. 203 of 2015, decided by order dated 18.01.2016) with a prayer to the Tribunal to punish the respondent-contemnors under the Contempt of Courts Act, 1971, for their not having complied with the Tribunal's order 18.1.2016 (ibid), and also to direct the respondent-contemnors to comply with the Tribunal's order dated 18.1.2016 (ibid) immediately. The operative part of the Tribunal's order dated 18.1.2016 (ibid) is reproduced below:

30. Therefore, both the OAs are partly allowed, and the respondents are directed to call the applicants of these two OAs for verification of their documents to verify their actual qualifications as possessed by them as on the last date for filling up of the application forms for the years 2012, as well as 2013, and to consider their candidature, and if their qualifications are found to be fulfilled as on the last date of receipt of those applications, as per the Notifications issued for the respective years 2012 & 2013, by the abovementioned Advertisements, to allow their candidature for the relevant posts.

3. Admittedly, in compliance with various orders passed by the Tribunal in different O.As., including the order dated 18.1.2016(ibid), the respondent-Delhi Subordinate Services Selection Board (DSSSB) passed an order dated 7.10.2016 holding that when the recruitment process has already

been completed, the candidatures of 18 candidates (including the petitioner of the present CP) for the desired Post Codes cannot be considered without valid admit cards, as they are to be treated to have not appeared for the examination relevant to the those Post Codes. Accordingly, the requests of those candidates were rejected.

4. The respondent-contemnors appeared and filed a compliance affidavit stating that the order dated 18.1.2016(ibid) has been complied with by them in passing the order dated 7.10.2016(ibid). However, the Tribunal, vide order dated 20.2.2017, directed the respondent-contemnors to pass a fresh order in compliance with the order dated 18.1.2016(ibid) within one month from 20.2.2017, and adjourned the matter to 22.3.2017.

5. On 22.3.2017, Mr.K.M.Singh, the learned counsel appearing for the respondent-contemnors, filed a copy of the fresh order dated 21.3.2017 passed by the respondent-DSSSB in compliance of the Tribunal's order dated 20.2.2017(ibid), wherein it has been held by the respondent-DSSSB that although the applicant-petitioner fulfills the qualifications of the posts as prescribed in the RRs, yet she cannot be considered as a valid candidate for the Post Code for which she is claiming the benefits, inasmuch as her candidature has been rejected in accordance with the terms and conditions stipulated in the Advertisement. Accordingly, the respondent-contemnors disposed of the case of the applicant-petitioner.

6. It has been submitted by the applicant-petitioner that neither the order dated 7.10.2016 (ibid) nor the order dated 21.3.2017 (ibid) passed by

the respondent-DSSSB is in consonance with the direction issued by the Tribunal, vide its order dated 18.1.2016(ibid) and, therefore, the respondent-contemnors have committed contempt of the Tribunal for their having willfully and deliberately flouted the order dated 18.1.2016(ibid).

7. In OA No.203 of 2015, the relief sought by the applicant was as follows:

“In the premises aforesaid, it is most respectfully prayed that this Honøble Tribunal may be pleased to direct the respondent to include the name of applicant in the list of eligible candidates released/uploaded on website of respondent no.1 for examination for the post TGT Sanskrit Male (Post Code No.14/13) already held on 28.12.2014 and consider the candidature of applicant for the post code 14/13 under advertisement no.01/13 besides post 116/12 under advertisement no.02/12 and any other or further order/relief which this Honøble tribunal may deem just and proper in favour of the applicant in the facts and circumstances of the case.”

Though the applicant's grievance was that her candidature for Post Code 14/13 was illegally and arbitrarily rejected by the respondent-DSSSB, yet she did not specifically seek the relief of quashing of the decision of the respondent-DSSSB rejecting her candidature for Post Code 14/13, vide -Rejection List of Post Code 14/13. It is also noticed that after the recruitment examination was held on 28.12.2014, she filed the O.A. Therefore, the DSSSB's decision rejecting the applicant's candidature for Post Code 14/13 was not interfered with and the relief specifically sought for by the applicant in the O.A. was also not granted by the Tribunal, vide its order dated 18.1.2016(ibid), while issuing the direction to the respondent-DSSSB to call the applicant for verification of her documents and to consider her candidature, if her -qualifications are found to be fulfilled as on the last date of receipt of applications, as per the Notifications issued for the

respective years 2012 & 2013. When the recruitment examination had already been held, when the result of the candidates who had appeared in the recruitment examination for the Post Code in question had already been published, when the merit list of those candidates had already been prepared, and when the recruitment process had already been closed by the respondent-DSSSB, there was at all no scope to consider the candidature of the applicant for the Post Code in question, although the respondent-DSSSB, after re-verifying the applicant's documents in compliance with the Tribunal's direction, found her eligible for the Post Code in question. Therefore, the respondent-contemnors cannot be said to have willfully disobeyed the Tribunal's order dated 18.1.2016(ibid). Considering the totality of the facts and circumstances of the case, and the nature of direction issued by the Tribunal to the respondent-contemnors, we have no hesitation in holding that the Tribunal's order dated 18.1.2016(ibid) has been substantially complied with by the respondent-contemnors, and that no case of contempt of the Tribunal is made out by the applicant-petitioner. It is trite law that contempt jurisdiction is to be exercised sparingly and in very deserving cases only and not casually. Such a power is not intended to be exercised as a matter of course.

8. In the light of our above discussions, the CP is dismissed. The notices issued to the respondent-contemnors are discharged. No costs.

(RAJ VIR SHARMA)
JUDICIAL MEMBER

(SHEKHAR AGARWAL)
ADMINISTRATIVE MEMBER