

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A.No.353 of 2016

New Delhi, this the 21st day of March, 2017

CORAM:

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

HON'BLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER

í í í .

Anju Rani,
w/o Sh.Abhinav Rana,
R/o B-13, IDC Apartments,
Plot No.8-C, Sector 11, Dwarka,
New Delhi 110075

í í í í

Applicant

(By Advocate: Mr.Ajesh Luthra)

Vs.

1. GNCT of Delhi,
Through Chief Secretary,
5th Level, AØ Wing,
Delhi Secretariat,
I.P.Estate,
New Delhi
2. Delhi Subordinate Services Selection Board,
Through its Secretary,
F-17, Karkardooma Institutional Area,
New Delhi.
3. The Director,
Directorate of Education,
Old Secretariat,
Delhi 110054

í í .

Respondents

(By Advocate: Ms.Pratima K. Gupta)

ORDER

Per RAJ VIR SHARMA, MEMBER (J):

The applicant has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs:

- ñ a) Hold and declare that the applicant has been wrongly excluded from consideration for appointment to the post of TGT (Hindi) (Female) in Directorate of Education, GNCT of Delhi (post code 7/13) and;
- b) Direct the respondents to consider the candidature of the applicant for the Post Code 7/13 as well and further process the result of the applicant accordingly and appoint her to the post of TGT (Hindi) (Female) in Directorate of Education, GNCT of Delhi in accordance with her merit position;
- c) Accord on all consequential benefits including monetary and seniority benefits.
- d) Award costs of the proceedings; and
- e) Pass any other order/direction which this Hon'ble Tribunal deem fit and proper in favour of the applicant and against the respondents in the facts and circumstances of the case.ö

2. Brief facts of the applicant's case are as follows:

2.1 In the year 2012, respondent no.2-Delhi Subordinate Services Selection Board (DSSSB), vide their Advertisement No.02/2012(Post Code 109/12), invited applications for recruitment to 89 (UR-40, SC-11, OBC-18) (Including OH-02, VH-01) posts of TGT (Hindi)(Female) in the Directorate of Education, Government of NCT of Delhi. In response thereto, the applicant applied for selection and recruitment as an OBC candidate.

2.2 In the year 2013, respondent-DSSSB issued yet another Advertisement No.01/2013 (Post Code 07/13) inviting applications for recruitment to 30 (Gen-14, SC-5, ST-3, OBC-8)(Including VH-1) posts of TGT(Hindi) (Female) in the Directorate of Education, Government of NCT

of Delhi, to which the applicant also responded and made her application as an OBC candidate.

2.3 The respondent-DSSSB decided to hold a common recruitment examination for Post Code 109/12 (Advertisement No.02/2012) and Post Code 07/13 (Advertisement No.01/2013).

2.4 In the month of December 2014, the respondent-DSSSB published lists of candidates who were eligible and ineligible to appear at the said recruitment test. The respondent-DSSSB also published a Rejection List (of candidates) for Post Code 07/13(Advertisement No.01/2013), wherein the applicant's name was shown at Sl.No.137, and the reason for rejection of her candidature was mentioned as öNOT HAVING THE REQUISITE QUALIFICATIONS AS ON CLOSING DATEö öNO B.A. WITH MIL, NO EQUIV. ORIENTAL DEGREE IN MIL CONCERNED, NO SAHITYA RATNA OF HINDI SAHITYA SAMMELAN, NO SAV CERT.ö

2.5 The applicant submitted representation dated 23.12.2014, both by post and email, requesting the respondent-DSSSB to consider her candidature for Post Code 07/13 (Advertisement No.01/2013) as she fulfilled all the eligibility criteria. The copies of the educational certificates, etc., were also enclosed with the said representation. When she visited the DSSSB authorities, she was assured by them that the matter would be looked into and the needful would be done.

2.6 On 28.12.2014 the respondent-DSSSB issued Admit Card (Annexure A/5) to appear in the common recruitment examination for Post Code 109/12(Advertisement No.02/2012).

2.7 By notice dated 24.11.2015, the marks statements were published by the respondent-DSSSB for Post Codes 109/12 (Advertisement No.02/2012) and 07/13 (Advertisement No.01/2013), along with other Post Codes of the said Advertisements. From the marks statement, she came to know that her candidature was considered by the respondent-DSSSB only for Post Code 109/12 and she obtained 101.75 marks for Post Code 109/12, despite representation submitted by her on 23.12.2014 requesting the respondent-DSSSB to consider her candidature for Post Code 07/13(Advertisement No.01/2013).

2.8 The respondent-DSSSB published/uploaded a public notice dated 14.1.2016 (Annexure A/8) calling such OBC candidates for Post Code 07/13(Advertisement NO.01/2013) who scored 102.25 or above marks (cut-off) for submission and checking of documents.

3. In the above context, it has been contended by the applicant that when the eligibility criteria for Post Code 109/12 (Advertisement No.02/2012) and Post Code 07/13 (Advertisement No.01/2013) are same, and when she has been found eligible for Post Code 109/12 (Advertisement No.02/2012), it cannot be said that she is ineligible for Post Code 7/13(Advertisement No.01/2013). As the respondent-DSSSB have held one common recruitment examination for both Post Codes 109/12 and 7/13, and

as the applicant has appeared therein on the basis of the Admit Card issued by the respondent-DSSSB, non-consideration of her candidature for Post Code 7/13(Advertisement No.01/2013) by the respondent-DSSSB is illegal, arbitrary and unjustified.

4. Resisting the O.A., the respondents have filed a counter reply, verified by -Shri Rajesh Bhatia, Dy.Secretary& wherein it has been stated, inter alia, that a notice dated 10.9.2013 was uploaded on the respondent-DSSSB& website stating as follows:

öThe Board has uploaded the list of eligible and ineligible candidates for the post codes 02/13 (Librarian), 03/13 (Asst.Teacher Nursery) and **04/13 to 19/13 (TGTs)** on the website of the Board. Any candidates, who has applied for the above post codes and has any objection about his/her eligibility/ineligibility, may submit his/her representation, with documentary evidence addressed to the Controller of Exam. by Speed Post/Regd.Post/Normal post or may deposit in the designated drop box at DSSSB reception counter latest by 20/09/2013.ö

No other notice was ever issued by the respondent-DSSSB calling for representation from any candidate, whose name was included in the list of ineligible candidates for the aforesaid Post Codes, by December 2014. The candidature of the applicant for Post Code 7/13 (Advertisement No.01/2013) has been rejected. Therefore, it is submitted by the respondents that the O.A. is devoid of merit and liable to be dismissed.

5. In her rejoinder reply, the aforesaid statement made by the respondents has not been specifically rebutted by the applicant. Besides reiterating more or less the same averments and contentions, the applicant has contended that having scored 101.75 marks in the common recruitment

examination, she is entitled to be called for submission and checking of documents, more particularly when the last candidate for Post Code 07/13 (Advertisement No.01/2013) securing 92.50 marks has been called by the respondent-DSSSB for submission and checking of documents, vide their notice dated 27.1.2017 (Annexure P/1 to the rejoinder reply).

6. We have carefully perused the records, and have heard Shri Ajesh Luthra, the learned counsel appearing for the applicant, and Ms. Pratima K.Gupta, the learned counsel appearing for the respondents.

7. After having given our thoughtful consideration to the facts and circumstances of the case, and the rival contentions, we have found no substance in any of the contentions of the applicant. In response to the notice dated 10.9.2013, published by the respondent-DSSSB, calling for objections/representations to the list of ineligible candidates in respect of Post Code 7/13 (wherein the applicant's name was included), the applicant did not make any representation/objection, along with copies of testimonials, by the stipulated date, i.e., 20.9.2013, to substantiate her claim that she was eligible to apply for selection and recruitment in respect of the Post Code 07/13 (Advertisement No.01/2013), and that she was wrongly declared as ineligible for the Post Code 07/13 (Advertisement No.01/2013). After considering the objections/representations received from the candidates in response to the said notice dated 10.9.2013, the respondent-DSSSB also published an additional list of eligible candidates for Post Code 07/13 and for other Post Codes, and published final Rejection Lists of the candidates

for Post Code 07/13 and other Post Codes of Advertisement No.02/2012 and Advertisement No.01/13 in November 2014, i.e., prior to the dates of issuance of E-Admit Cards to the candidates and of holding of the common recruitment examination for different Post Codes of Advertisement Nos.02/2012 and 01/2013. The E-Admit Card, which was uploaded, and copy of which has been filed by the applicant at Annexure A/5, clearly shows that the applicant was issued the said E-Admit Card to appear in the common examination only for Post Code 109/12(Advertisement No.02/2012). Thus, she appeared in the common examination only for Post Code 109/12 (Advertisement No.02/2012). The merit list for Post Code 109/12 was prepared by the respondent-DSSSB in respect of the candidates whose candidatures were accepted by the respondent-DSSSB and who took the common written examination only for Post Code 109/12 and of the candidates whose candidatures were accepted by the respondent-DSSSB and who took the common written examination for both Post Codes 109/12 and 07/13. It is also obvious that separate merit lists were prepared by the respondent-DSSSB in respect of Post Codes 109/12 (Advertisement No.02/2012) and 07/13(Advertisement No.01/2013). There was at all no scope for entertaining representation submitted by any candidate, like the applicant, after 20.9.2013, i.e., the date stipulated in the notice dated 10.9.2013, and after publication of the lists of candidates whose candidatures were accepted and whose candidatures were rejected for different Post Codes of Advertisement No.02/2012 and Advertisement No.01/13. Thus, the

respondent-DSSSB cannot be faulted for not entertaining the purported representation made by the applicant on 23.12.2014. Having failed to make any representation by 20.9.2013 in response to the notice dated 10.9.2013 and, further, after having accepted her position as being ineligible for Post Code 07/13 and/or rejection of her candidature for Post Code 07/13(Advertisement No.01/2013), and also having appeared in the common recruitment examination only for Post Code 109/12 (Advertisement No.02/2012) on the basis of the said E-Admit Card, the applicant cannot be allowed to raise any grievance with regard to the decision of the respondent-DSSSB declaring her as ineligible and/or rejection of her candidature for Post Code 07/13 either on 23.12.2014 by making a representation or at a belated stage by filing the present O.A. on 15.1.2016, more particularly when the E-Admit Cards had already been issued to the candidates and the common recruitment examination had already been held, and the results of the candidates whose candidatures for Post Code 07/13 had already been published and merit list for Post Code 07/13(Advertisement No.01/2013) had also been prepared by the respondent-DSSSB by the said dates. The plea of the applicant that she came to know that the respondent-DSSSB accepted her candidature for Post Code 109/12 (Advertisement No.02/2012) and rejected her candidature for Post Code 07/13 (Advertisement No.01/2013) only on 24.11.2015 when the respondent-DSSSB issued/uploaded notice publishing the marks statement of the candidates, who appeared in the common recruitment examination, is belied by the said E-Admit Card issued

to her in December 2014 and by her own representation dated 23.12.2014(ibid). Even though the eligibility criteria for both Post Codes 109/12(Advertisement No.02/2012) and 07/13(Advertisement No.01/2013) are same, and a common recruitment examination has been held for the both Post Codes 109/12 and 07/13, yet, in our considered view, the applicant cannot be allowed to claim consideration of her candidature for Post Code 07/13 (Advertisement No.01/2013) on the basis of the marks obtained by her in the common recruitment examination inasmuch as she has appeared therein only for Post Code 109/12(Advertisement No.02/2012), and her selection or otherwise for recruitment against Post Code 109/12 (Advertisement No.02/2012) has to be considered/determined by the respondent-DSSSB only on the basis of her merit position vis-à-vis other candidates for Post Code 109/12(Advertisement No.02/2012). In the above view of the matter, we perceive no illegality or infirmity in the decision of the respondent-DSSS in considering the applicant's candidature only for Post Code 109/12(Advertisement No.02/2012) and in not entertaining the applicant's representation dated 23.12.2014 and/or in not considering the applicant's candidature for Post Code 07/13 (Advertisement No.01/2013) on the basis of the marks obtained by her in the combined recruitment examination.

8. There is yet another aspect of the matter. Had the respondent-DSSSB accepted and acted on the applicant's representation dated 23.12.2014(ibid), the respondent-DSSSB would not only have relaxed

and/or acted contrary to the notice dated 10.9.2013 (ibid), but also their action would have been violative of Articles 14 and 16 of the Constitution of India. There were hundreds of other candidates, like the applicant in the present case, whose applications/candidatures for Post Code 07/13(Advertisement No.01/2013) were rejected by the respondent-DSSSB. Non-grant of similar opportunity to those candidates would have been discriminatory. A process of selection and appointment to a public office should be absolutely transparent, and there should be no deviation from the terms and conditions stipulated by the recruiting agency during the recruitment process and the rules applicable to the recruitment process in any manner whatsoever, for a deviation in the case of a particular candidate amounts to gross injustice to the other candidates not knowing the fact of deviation benefitting only one or a few. The procedure should be same for all the candidates.

9. In the light of our above discussions, we have no hesitation in holding that the applicant has not been able to make out a case for the reliefs claimed by her. Accordingly, the O.A, being devoid of merit, is dismissed. No costs.

**(RAJ VIR SHARMA)
JUDICIAL MEMBER**

**(SHEKHAR AGARWAL)
ADMINISTRATIVE MEMBER**