

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO. 471 OF 2015

New Delhi, this the 30th day of November, 2016

CORAM:

**HON'BLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER
AND**

HON'BLE SHRI K.N.SHIVASTAVA, ADMINISTRATIVE MEMBER

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Hemlata,

D/o Kanhaiya Lal Gupta,

R/o F-22, Krishan Vihar,

New Delhi 110086

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Applicant

(By Advocate: Mr.Ajesh Luthra)

Vs.

1. Govt. of NCT of Delhi,
Through the Chief Secretary,
5th Floor, Delhi Sachivalaya,
Govt. of NCT of Delhi.
2. Government of NCT of Delhi,
Through its Chairman,
Delhi Subordinate Services Selection Board,
FC-18, Institutional Area,
Karkardooma,
Delhi-110092
3. Directorate of Education (GNCT of Delhi),
Through Director,
Old Secretariat, Delhi í í .. Respondents

(By Advocate: Ms.Sangita Rai with Mr.P.S.Tomar)

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ORDER

Per Raj Vir Sharma, Member(J):

The applicant has filed this Original Application seeking the following reliefs:

- øi) quash and set aside the impugned decision of the respondents placed at Annexure A/1 vide which the applicant's candidature has been rejected for the post of TGT (Hindi) (Female) (Post Code 07/13).
- ii) direct the respondents to consider the candidature of the applicant for the post code 07/13 also on the basis of common examination conducted by them for the Post Codes 109/12 and 07/13.
- iii) process the appointment of the applicant accordingly with all consequential benefits.
- iv) award costs of the proceedings and
- v) pass any order/relief/direction(s) as this Honøble Tribunal may deem fit and proper in the interests of justice in favour of the applicants.ö

2. Brief facts of the applicant's case are that in response to the Advertisement No.01/2013 issued by the respondent-Delhi Subordinate Services Selection Board (DSSSB), she submitted application as an OBC candidate for selection and recruitment to the post of TGT (Hindi) (Female) in the Directorate of Education, Government of NCT of Delhi (vide Post Code 07/13). In the month of December 2014, a rejection list (Annexure A/1) was published by the respondent-DSSSB wherein, vide Sl.No.448, her candidature was shown to have been rejected on the grounds of not having the requisite qualifications as on the closing date. The examination for the post was held on 28.12.2014 which was a common examination for the Post Codes 109/12 and 07/13. The Post Code 109/12 relates to the selection process initiated for the post of TGT (Hindi) with the same user department,

i.e., Directorate of Education, and was initiated in the year 2012 by way of employment notification bearing No.2/2012 (Annexure A/5). The qualifications required for both employment notifications are the same. She had applied for the Post Code 109/12 also at the relevant point of time and was issued admit card (Annexure A/6) bearing Roll No. 45000716 for the examination scheduled on 28.12.2014. She appeared on 28.12.2014 and took the examination. Since the examination conducted on 28.12.2014 was a common examination for the two Post Codes, no separate admit cards were issued to the candidates. The DSSSB had issued only one admit card to the eligible candidates. However, where they found the candidates eligible for both the Post Codes, the admit card specifically mentioned both the Post Codes. In all other cases, only one Post Code was mentioned in the admit cards.

2.1 It has been contended by the applicant that the respondent-DSSSB itself found her eligible for the post of TGT (Hindi) (Post Code 109/12, employment notification No.2/2012), and also issued admit card to appear in the recruitment examination on 28.12.2014. Therefore, the rejection of her candidature for the post of TGT (Hindi) (Female) (Post Code 07/13, vide employment notification no.1/2013) is arbitrary and illegal and hence liable to be quashed. It has also been contended by the applicant that since the examination that was held on 28.12.2014 was a common examination for the aforesaid two Post Codes, the respondent-DSSSB

should consider her candidature on the basis of the aforesaid common examination.

3. Resisting the O.A., the respondent-DSSSB have filed a counter reply. The respondent-DSSSB have stated, *inter alia*, that the application made by the applicant in response to the employment notification no.1/2013 for selection and appointment to the post of TGT (Hindi) (Female), Post Code 07/13, was rejected as she was found not to have bubbled :-column 13(1) B.A.(Honours) in MIL concerned, (3) Additional Language in B.A., (4) Equivalent oriental degree in MIL concerned, (5) Sahitya Ratna of Hindi Sahitya Sammelan, (6) PG qualification in MIL concerned, (7) Degree/Diploma in teaching SAV Certificate of the OMR application sheet. On 10.9.2013, a notice, along with the lists of eligible, and of ineligible candidates, was uploaded on the website of the respondent-DSSSB, inviting representations from the candidates by 20.9.2013. The name of the applicant having appeared in the aforesaid list of ineligible candidates, she submitted a representation, along with the self-attested copies of certificates in support of her claim to have possessed the qualifications required for the post of TGT (Hindi) Female, requesting the respondent-DSSSB to accept her candidature for the post. The respondent-DSSSB, after considering the representations received from various candidates, including the representation of the applicant, published a list of eligible candidates on 26.11.2014, wherein the applicant's name did not find place. The respondent-DSSSB also published a list of candidates whose

applications were rejected. As against the name of the applicant, it was mentioned that her application was rejected by the respondent-DSSSB on the ground of her not having the requisite qualifications as on the closing date. The representation made by the applicant was considered and rejected by them, since on scrutiny of the applicant's OMR sheet, it was again found that the applicant did not bubble the appropriate column of the OMR sheet. The respondent-DSSSB, therefore, submits that her application was rightly rejected.

4. No rejoinder reply has been filed.

5. We have perused the records and have heard Shri Ajesh Luthra, the learned counsel appearing for the applicant, and Ms.Sangeeta Rai and Mr.P.S.Tomar, the learned counsel appearing for the respondent-DSSSB.

6. Shri Ajesh Luthra, the learned counsel appearing for the applicant, submitted that the present O.A. is squarely covered by the decisions of the coordinate Benches of the Tribunal in O.A.No.4445 of 2014 and other connected cases (*Neha Nagar, etc. Vs. Delhi Subordinate Services Selection Board (DSSSB) & Ors, etc.*), decided on 18.12.2015; O.A.No.4561 of 2014 (*Rohit Kumar Vs. Govt. of NCT of Delhi and others*), decided on 24.2.2016; and O.A.No. 4558 of 2014 (*Ms.Suman Vs. Govt. of NCT of Delhi and others*), decided on 24.2.2016. The copies of the orders passed by the coordinate Benches of the Tribunal in those cases have also been filed by Shri Ajesh Luthra. We have carefully perused those orders.

7. In *Neha Nagar, etc. Vs. Delhi Subordinate Services Selection Board (DSSSB) & Ors, etc.*(supra), the applicants submitted their applications in response to the Advertisement No.01/2013, issued by the respondent-DSSSB, which is also the subject-matter of the present O.A. Their applications were rejected by the respondent-DSSSB on the ground of their not having the requisite qualifications as on the closing date. The respondent-DSSSB took the stand that they used the OMR Technology in respect of the applications for the recruitment examination. If the applicants failed to bubble the required slots indicating their essential qualifications and other details, the OMR Technology rejected their applications. The respondent-DSSSB also pleaded before the Tribunal that the verification of the certificates pertaining to the essential qualifications would be done at the time of appointment only, i.e., after the applicants successfully cleared the examination. The coordinate Bench observed that though the applicants possessed the essential qualifications as on the closing date for receipt of applications, yet in view of their not bubbling the relevant Columns of the OMR Form, or for misunderstanding the instructions contained in the Advertisement, the respondent-DSSSB rejected their applications. The coordinate Bench of the Tribunal also observed as follows:

õ11. It is well settled that applications or candidatures or selections normally shall not be rejected by the authorities, basing on the minor mistakes committed by the youngsters in filling up the application forms or in the competitive examinations, if otherwise, they establish their identity and that they are qualified and eligible for consideration of their cases by furnishing the documents in proof of the sameí ..ö

In support of its observation, the coordinate Bench of the Tribunal referred to the decisions of the Honøble Supreme Court, High Courts of Delhi, Punjab & Haryana, and Rajasthan, and different Benches of the Tribunal, in *Commissioner of Police & Others Vs. Sandeep Kumar*, (2011) 4 SCC 644; *Delhi Subordinate Services Selection Board & Another Vs. Neeraj Kumar and Another* in W.P. (C) No.1004/2012, decided by the Honøble High Court of Delhi on 24.2.2012; *Rohit Kumar Vs. Union of India*, C.W.P No.13730 of 2012 decided by the Honøble High Court of Punjab & Haryana on 27.7.2012; *Anil Kumar Vs. State of Rajasthan & Others*, S.B.Civil Writ Petition No.657 of 2012 decided by the Honøble High Court of Rajasthan on 2.1.2013; *Ravindra Mallik Vs. Staff Selection Commission & others*, decided by Principal Bench of the Tribunal on 13.2.2013; *Arvind Kumar Kajla Vs. UOI & others*, OA No.1802 of 2012, decided by the Principal Bench of the Tribunal on 30.10.2013; *Subhanta Devi Vs. State of Rajasthan*, S.B.Civil Writ Petition No.11269 of 2011, decided by the Honøble High Court of Rajasthan on 13.5.2014; and *Ms.Deepika & Another Vs. Govt. of NCT of Delhi & others*, decided by the Principal Bench of the Tribunal on 2.7.2014,

7.1 Accordingly, the coordinate Bench of the Tribunal held thus:

õ20. In view of the above legal position and in view of the fact that the applicants were already permitted to take the examination provisionally by virtue of the interim orders dated 23.12.2014 and their results are yet to be declared by the respondents, we are of the considered view that the ends of justice would be met if the respondents are directed to declare the results of the applicants and to consider their cases along with others as per his/her merit, after verifying their qualifications or otherwise satisfying themselves with their

suitability, in accordance with law, within four weeks from the date of a copy of this order. The OAs are disposed of, accordingly. No costs.ö

8. In *Rohit Kumar Vs. Govt. of NCT of Delhi and others* (supra), the coordinate Bench, after following the decisions of the Tribunal in *Neha Nagar Vs. Delhi Subordinate Services Selection Board and others* (supra), and *Santosh Vs. Delhi Subordinate Services Selection Board & another*, OA No.4583 of 2014, decided on 30.10.2015, directed thus:

ö13. In view of the above legal position and in view of the fact that the applicant was already permitted to take the examination provisionally by virtue of the interim orders dated 22.12.2014 and his results are yet to be declared by the respondents, we are of the considered view that the ends of justice would be met if the respondents are directed to declare the results of the applicant and to consider his case along with others as per his merit, after verifying his qualifications or otherwise satisfying themselves with his suitability, in accordance with law, within four weeks from the date of receipt of a copy of this order. The OA is disposed of, accordingly. No costs.ö

9. In *Ms.Suman Vs. Govt. of NCT of Delhi and others* (supra), the coordinate Bench of the Tribunal, while disposing of the O.A., issued similar direction as in *Rohit Kumar Vs. Govt. of NCT of Delhi and others* (supra).

10. After having given our anxious consideration to the facts and circumstances of the case, and the rival contentions of the parties, we have found that the applicant in the present case is not similarly placed as applicants in *Neha Nagar, etc. Vs. Delhi Subordinate Services Selection Board (DSSSB) & Ors, etc.* (supra), *Rohit Kumar Vs. Govt. of NCT of Delhi and others* (supra), and *Ms.Suman Vs. Govt. of NCT of Delhi and others* (supra). Though the grievance of the applicant and the relief prayed for by

her vide paragraph 8(i) of the O.A. with regard to rejection of her candidature for the post of TGT (Hindi) (Female), Post Code 7/13 of employment notification No.1/2013, are same as that of the applicants in *Neha Nagar, etc. Vs. Delhi Subordinate Services Selection Board (DSSSB) & Ors, etc. (supra)*, *Rohit Kumar Vs. Govt. of NCT of Delhi and others (supra)*, and *Ms.Suman Vs. Govt. of NCT of Delhi and others (supra)*, yet the relief sought by her, vide paragraph 8(ii) of the O.A., i.e., for a direction to the respondents to consider her candidature for the post code 07/13 also on the basis of common examination conducted by them for the Post Codes 109/12 and 07/13 was not prayed for by the applicants in *Neha Nagar, etc. Vs. Delhi Subordinate Services Selection Board (DSSSB) & Ors, etc. (supra)*, *Rohit Kumar Vs. Govt. of NCT of Delhi and others (supra)*, and *Ms.Suman Vs. Govt. of NCT of Delhi and others (supra)*. This apart, as per the interim orders passed by the Tribunal, the applicants in *Neha Nagar, etc. Vs. Delhi Subordinate Services Selection Board (DSSSB) & Ors, etc. (supra)*, *Rohit Kumar Vs. Govt. of NCT of Delhi and others (supra)*, and *Ms.Suman Vs. Govt. of NCT of Delhi and others (supra)*, appeared in the recruitment examination conducted by the respondent-DSSSB for the respective Post Codes. Considering this aspect, and keeping in view the principles laid down in different cases, the coordinate Benches passed orders directing the respondents to declare the results of the applicants and to consider their cases along with others as per their merit, after verifying their qualifications or otherwise satisfying themselves with their suitability, in

accordance with law.ö After having considered the grievance of the applicant in the present case with regard to rejection of her candidature for selection and appointment to the post of TGT (Hindi) (Female), Post Code 7/13, employment notification No.1/2013, in the light of the decisions of the coordinate Benches of the Tribunal in *Neha Nagar, etc. Vs. Delhi Subordinate Services Selection Board (DSSSB) & Ors, etc. (supra)*, *Rohit Kumar Vs. Govt. of NCT of Delhi and others (supra)*, and *Ms.Suman Vs. Govt. of NCT of Delhi and others (supra)*, we direct the respondents to consider the candidature of the applicant for the Post Code 7/13 on the basis of her performance in the common examination for both Post Codes 109/12 and 7/13, after verifying her qualifications or otherwise satisfying themselves with her suitability in accordance with law, within four weeks from the date of receipt of copy of this order.

11. With the aforesaid observation and direction, the O.A. is disposed of. No costs.

(K.N.SHRIVASTAVA)
ADMINISTRATIVE MEMBER

(RAJ VIR SHARMA)
JUDICIAL MEMBER

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