

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

**CP-491/2016 in
OA-352/2016**

Reserved on : 06.03.2017.

Pronounced on : 08.03.2017.

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

Shri Mukesh Kumar

S/o Shri Chander Bhan

Age 30 years

Applied for : Post of TGT, Hindi, Male (Code 06/13)

OMR Sheet No.131099

Rejection List Sr. No.391

R/o House No-863E/28

Bharat Colony, Rohtak

Haryana-124001.

....Applicant

(through Sh. Sachin Kumar Jain, Advocate)

Versus

1. Sh. Rajesh Bhatia,
Secretary/Dy. Secretary,
Delhi Subordinate Service Selection Board,
FC-18, Institutional Area,
Karkardooma, Delhi-110 092.

2. Ms. Suamya Gupta,
Director,
Govt. of NCT Delhi,
Directorate of Education,
Old Pattarachar Building,
Lucknow Road,
Timar Pur,
Delhi-110 054.

..... Respondents

(through Sh. Amit Anand, Advocate)

O R D E R

Hon'ble Mr. Shekhar Agarwal, Member (A)

This Contempt Petition has been filed for alleged non-compliance of our order dated 22.07.2016, the operative part of which reads as follows:-

“3. Accordingly, this OA is disposed of with a direction to the respondents to examine the case of the applicant herein and in case he is found to be covered by the aforesaid judgments of this Tribunal passed in OA Nos.4445/2014 alongwith connected matters, OA No.202/2015 and OA No.203/2015, then the he may be extended the same benefits as were granted to the applicants in aforesaid OAs. Decision may be taken by the respondents within a period of six weeks from the date of receipt of a certified copy of this order and communicated to the applicant by means of a reasoned and speaking order. There shall be no order as to costs.”

2. In compliance thereof the respondents have passed order dated 07.10.2016 by which the claim of the applicant has been rejected. Today, when this matter was considered, the respondents have produced another communication dated 02.03.2017, which has been taken on record.

3. Learned counsel for the respondents argued that directions had been given by the Tribunal to examine the case of the petitioner herein in the light of judgments of this Tribunal in the case of **Neha Nagar Vs. DSSSB & Ors.** (OA-4445/2014) with connected cases dated 18.12.2015 and in the case of **Vikas Vs. DSSSB & Anr.** (OA-202/2015) along with OA-203/2015 (**Pushpa Devi Vs. DSSSB &**

Anr.]). Accordingly, this issue has been examined and it has been found that the applicant had never been issued admit card for Post Codes-6/13. Therefore, at this stage when the entire process is over and the final result for the post has already been declared, the applicant cannot be considered for the aforesaid Post Code as he has been treated to have not appeared for the aforesaid examination. The respondents further submitted that this case was different from **Neha Nagar** (supra) as applicants therein had approached the Tribunal immediately when admit card was not issued to them and were permitted to provisionally appear for the examination for the aforesaid Post Code as well. In the case of **Vikas** (supra) the candidature was rejected for TGT (Sanskrit) because he had not been issued admit card for Post Code 14/13.

3.1 The respondents have further submitted that Principal Bench of this Tribunal vide order dated 12.08.2016 in OA-4572/2014 in the case of **Devender Yadav & Ors. Vs. DSSSB & Ors.** has held as follows:-

“21. The Rajasthan High Court judgment in the case of Manoj Kumar (supra) has, of course, come subsequently to the order dated 18.12.2015 pronounced by the Coordinate Bench in Neha Nagar vs. DSSSB & Ors (supra), and other two cases in the case of Tamanna Tayal (supra) and Mukesh Kumar Sharma vs. DSSSB & Anr. (supra). In spite of the categorical findings recorded by the Division Bench of the Hon'ble Delhi High Court in the case of Aruna Meena vs. Union of India and Anr. (supra), even that case had not been pointed out before, and noticed by the Coordinate Bench, while delivering its judgment on 18.12.2015 in Neha Nagar vs. DSSSB & Ors (supra).

22. We are in respectful agreement with the Division Bench judgment of Hon'ble Delhi High Court in Aruna Meena vs. Union of India and Anr. (supra), and we are bound by it, as well as the Single Bench 15 (OA No.4572/2014) judgment of the Hon'ble Rajasthan High Court in Manoj Kumar (supra), and are, therefore, as a result, unable to follow the Coordinate Bench judgment in Neha Nagar vs. DSSSB & Ors (supra) and other related cases. The applicants ought to have been vigilant while filling up their application forms, and when they had failed to do so, no indulgence can be granted to them on any sympathetic considerations. The Hon'ble Apex Court has also in the case of State of Tamil Nadu & Ors. vs. St. Joseph Teachers Training Institute & Anr., (1991) 3 SCC 87: JT 1991 (2) SC 343, held that mere humanitarian grounds cannot form the basis for granting reliefs against the settled propositions of law, or contrary to law, and when an instruction or yardstick prescribed in the concerned advertisement has been applied uniformly in the case of all other candidates, the three applicants before us cannot claim to be provided with a more favourable consideration than others have been provided by the respondents."

3.2 In view of the aforesaid, the claim of the applicant herein has been rejected.

4. We have heard both sides. Learned counsel for the petitioner argued that the respondents have erred in coming to this conclusion. They have also not examined the case of the applicant in the light of the judgments of this Tribunal in the case of **Neha Nagar** (supra) and **Vikas etc.** (supra).

5. After hearing both sides, we are of the view that our order has been substantially complied with and there is no contempt persisting in this case. This is because we had disposed of the OA at the admission stage itself without going into the merits of the case, with a

direction to the respondents to examine the case of the applicant herein and extend him the benefit of **Neha Nagar's** and **Vikas's** judgments, if he is found to be covered by that judgment. The respondents have accordingly examined the case of the applicant and have come to the conclusion that he was not similarly placed because he was never issued admit card for Post Codes-6/13 and had never taken the examination for that post. Moreover, the selection for these posts is also now closed. Further, candidature of Vikas was also rejected on this ground.

6. We, therefore, close this CP and discharge the notices issued to the respondents. The applicant shall, however, be at liberty to challenge the order now passed by the respondents in accordance with law, if so advised.

(Raj Vir Sharma)
Member (J)

(Shekhar Agarwal)
Member (A)

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