

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

OA NO.1611/2015

Order reserved on 13.12.2016
Order pronounced on 04.01.2017

HON'BLE MR V.N. GAUR, MEMBER (A)
HON'BLE DR B.A. AGRAWAL, MEMBER (J)

Manju, aged about 26 years,
D/o Shri Shri Bhagwan,
R/o 8/610, Shastri Nagar, Line Par,
N.N. Road, Bahadurgarh,
Distt. Jhajjar, Haryana.

...Applicant

(By Advocate: Shri Prashant Singh)

VERSUS

1. DSSSB through
The Chairman,
FC-18, Institutional Area,
Karkardooma, Delhi.
2. Govt. of NCT of Delhi through
The Secretary,
Deptt. of Health and Family
Welfare (Med.),
Delhi Secretariat, Players Building,
I.P. Estate, New Delhi.
3. South Delhi Municipal Corporation through
The Commissioner,
Dr. Shyama Prasad Mukherjee,
Civic Centre, Minto Road,
New Delhi.

...Respondents

(By Advocate: Ms. Harvinder Oberoi for R-1 and 2 and Mr. M.R.
Junadi for R-3)

:ORDER:**DR BRAHM AVTAR AGRAWAL, MEMBER (J):**

The DSSSB (respondent no.1) conducted on 09.06.2013 a common selection test for posts of Staff Nurse in the GNCT of Delhi (respondent no.2) [post code 20/13] and Nurse 'A' Grade in the MCD (respondent no.3) [post code 21/13], both in the grade pay of Rs.4600/-, vide the Advertisement No.01/13 dated 20.02.2013 (Annexure-B). Note no.7 under paragraph 3 and paragraph 6(i) of the said Advertisement read as under:

Note No.7 under paragraph 3:

"In case of combined examination for more than one related posts the preference order of the posts by the candidate will be obtained in relevant column either in OMR sheet on the day of examination or at a later stage and that will be considered accordingly subject to the availability of the vacancy."

Paragraph 6(i):

"Reservation benefits will be available to the SC/ST/OBC/Physically Handicapped & other special category candidates in accordance with the instructions/orders/circulars issued from time to time by the Govt. of Delhi. The reservation benefits under SC/STs shall be admissible as per judgment dated **12.09.2012 of Hon'ble High Court of Delhi as passed in No.5390/2010, CM No.20815/2010 – Deepak Kumar and Ors Vs District and Sessions Judge, Delhi and Ors.** as per which SC/ST candidates of other States/U.Ts. shall also be eligible for reservation benefit. However, this shall be further subject to policy decision of Govt. of Delhi for SC/ST migrants of other States."

2. The applicant, belonging to the category : SC (Outsider) [SC (O)], was a candidate for both the aforesaid post codes. However, she gave her first preference to post code 20/13, i.e., the post in the respondent no.2 (GNCT of Delhi), vide Annexure-D

(colly). She was successful in the exam, secured 98.5 marks, vide the Result Notice dated 30.12.2014 [Annexure-A (colly)] and was allocated to the respondent no.3 (MCD).

3. The applicant has filed the instant OA praying for a declaration that she is entitled to her appointment with the respondent no.2 (GNCT of Delhi), as per her preference, hoping for better promotion prospects, raising the contention that many candidates of her category [SC (O)] with lesser marks have been allocated to the respondent no.2.

4. We have heard the learned counsel for the parties, perused the pleadings and given our thoughtful consideration to the matter.

5. The pleas taken by the respondents nos.1 and 2 in their reply and oral arguments are that the decision as to reservation benefits to candidates belonging to SC (O) category was delayed, that the applicant had been allocated in the unreserved category against the post code 21/13 prior to the said decision and that the posts in both the post codes carry the same grade pay.

6. We do not see substance in the aforesaid submissions made on behalf of the respondents nos.1 and 2. For the delay in the aforesaid decision, the applicant cannot be made to suffer. For her, the allocation should have been revised in the light of her preference.

7. Hence, the OA deserves to succeed. The OA is allowed with the direction to the respondents to allocate the applicant to the respondent no.2 (GNCT of Delhi). No order as to costs.

(DR B. A. AGRAWAL)
MEMBER (J)

(V.N. GAUR)
MEMBER (A)

/JK/