

Central Administrative Tribunal
Principal Bench
New Delhi

O.A.No.4142/2013
with
O.A.No.459/2014
O.A.No.809/2014

Order Reserved on: 01.11.2017
Order pronounced on 06.11.2017

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Ms. Nita Chowdhury, Member (A)

O.A.No.4142/2013

1. Samay Singh Meena
S/o Sh. Lajja Ram
R/o 5, Tundupura, Jagjivanpur
Tehsil Wair, District Bharatpur
Rajasthan.
2. Ajay Kumar Meena
S/o Sh. Harkesh Meena
R/o village Goth, Post Amawara
Tehsil Bamanwas, District Swaimadho Pur
Rajasthan. ... Applicants

(By Advocate: Shri Naresh Kaushik with Ms. Shaili Pandey and
Ms. Anjali Sharma)

with

1. Delhi Subordinate Services Selection Board
Through its Chairman
F-18, Karkardooma Institutional Area
New Delhi.

2. Municipal Corporation of Delhi
Through its Commissioner
Town Hall, Delhi, North MCD

3. Govt. of NCT Delhi
Through its Chief Secretary
Delhi Secretariat
I.P.Estate
New Delhi.

4. South Delhi Municipal Corpn.
Dr. S.P.M.Civil Centre, Minto Road
New Delhi-110 002

... Respondents

(By Advocate: Mrs. Alka Sharma for R-1, Shri K.M.Singh for R-2
and Mrs. Anupama Bansal for R-4)

O.A.No.459/2014

Amita Kumar Meena
D/o Sh. Rameshwar Prasad
R/o Village Gudli, Tehsil Nadauti
District Karauli
Rajasthan.

...

Applicant

(By Advocate: Shri Naresh Kaushik with Ms. Shaili Pandey and
Ms. Anjali Sharma)

with

1. Delhi Subordinate Services Selection Board
Through its Chairman
F-18, Karkardooma Institutional Area
New Delhi.

2. South Delhi Municipal Corporation
Dr. S.P.M.Civil Centre, Minto Road
New Delhi-110002.

3. Govt. of NCT Delhi
 Through its Chief Secretary
 Delhi Secretariat
 I.P.Estate
 New Delhi. ... Respondents

(By Advocate: Mrs. Alka Sharma for R-1 and Shri R.K.Jain for R-2)

O.A.No.809/2014

Mr. Suresh Chand Meena
 S/o Sh. Laxman Ram Meena
 R/o Village Baijla, Tehsil Rajgarh
 District Alwar, Rajasthan
 Presently at New Delhi. ... Applicant

(By Advocate: Shri Naresh Kaushik with Ms. Shaili Pandey and Ms. Anjali Sharma)

with

1. Delhi Subordinate Services Selection Board
 Through its Chairman
 F-18, Karkardooma Institutional Area
 New Delhi.
2. Municipal Corporation of Delhi
 Through its Commissioner
 Town Hall, Delhi, North Zone
3. Govt. of NCT Delhi
 Through its Chief Secretary
 Delhi Secretariat
 I.P.Estate
 New Delhi.

4. South Delhi Municipal Corpn.
Dr. S.P.M.Civil Centre, Minto Road
New Delhi-110 002.

... Respondents

(By Advocate: Mrs. Alka Sharma for R-1, Shri L.C.Rajput for R-2
and Mrs. Anupama Bansal for R-4)

O R D E R (Common)

By V. Ajay Kumar, Member (J):

Since the question of facts and law involved in the aforesaid OAs are identical, they are being disposed of by this common order.

2. The applicants in all these OAs belong to Scheduled Tribe category and participated in the selection process for selection to the post of Primary Teachers under Post Code No.16/08 vide Advertisement No.02/2008. The examination was held on 15.02.2009 and the results pertaining to the other categories such as General, OBC, etc. were declared on 06.10.2009, but the respondents put the results of the applicants and other ST candidates in withheld and stated that the same would be declared in due course. The respondents, in pursuance of orders in certain OAs, though declared the results of the ST candidates, who are parties in those OAs but not declared the results of the applicants till date, though they are also identically placed.

3. When these matters were taken up for hearing, the learned counsel for the applicants submitted that the subject matter of these OAs are squarely covered by a Coordinate Bench decision of this

Tribunal in **Ms. Rajni Meena and Others v. Delhi Subordinate Services Selection Board and Others** (O.A.No.3826/2013), dated 11.08.2016 and the said judgement has been implemented by the respondents and that this Tribunal also disposed of number of identical OAs in terms of the Orders in **Ms. Rajni Meena** (supra).

4. On the other hand, the learned counsel appearing for the respondents would submit that the facts in the present OA are different from that of Ms. Rajni Meena and other cases and that in view of the decision of the Hon'ble Apex Court in **Puducherry Scheduled Caste People Welfare Association v. Chief Secretary to Government, Union Territory of Pondicherry and Others**, (2014) 9 SCC 236, and the decision of the Hon'ble High Court of Delhi in **Ravindra Devi v. Govt. of NCT of Delhi & Others**, WP(C) No.3049/2012, dated 27.11.2013, the OAs are liable to be dismissed on merits as well as on the ground of limitation.

5. This Tribunal while allowing the OA in **Ms. Rajni Meena** (supra), observed as under:

"2. The applicants responded to an advertisement issued by the respondents on 22.07.2008 calling for applications from eligible candidates for various posts in the Government of NCT of Delhi. The selection was held and the respondents declared the cut off for the preliminary examination on 29.05.2009. On 27.08.2009, they declared the result of the main examination for the post of Primary Teacher. On 06.10.2009, respondent No.1 declared the final merit list for the post of Primary Teacher Post Code No. 16/08. However, the result of ST category was not declared. It was mentioned in the said notice that the result of ST candidates would be declared in due course. The applicants made several enquiries from the respondents after that but neither was the result of ST category declared nor any fruitful reply was received from them. Some identically placed candidates, namely, **Ms. Babita Kumari & Ors.** filed OA-530/2010 before this Tribunal. This was dismissed on 11.10.2011. The applicants therein then approached Hon'ble High Court of Delhi by filing Writ Petition (C) No. 7997/2012. This was allowed by Hon'ble High Court of Delhi on 14.03.2013 after taking

note of Full Bench decision of Hon'ble High Court of Delhi in the matter of **Deepak Kumar & Ors. Vs. District and Session Judge & Ors.** dated 12.09.2012 in (WP(C) No. 5390/2010). While Ms. Babita and others have since been appointed, till date the respondents have not declared the result of ST category.

3. OA-4111/2013 filed by similarly placed person, namely, **Ms. Nirmala Vs. DSSSB & Ors.** was rejected by this Tribunal on 30.11.2014 after holding that the O.A. was barred by limitation. Thereupon, Ms. Nirmala challenged the aforesaid order before Hon'ble High Court of Delhi by filing W.P. (C) No. 920/2015. Hon'ble High Court of Delhi set aside the order of this Tribunal on 15.02.2016 and remitted the matter back to the Tribunal for deciding it afresh after observing that the result of ST category was yet to be declared and 04 candidates belonging to that category have been appointed pursuant to the order of Hon'ble High Court of Delhi in **Ms. Babita Kumari's** case (supra).

4. The applicants are now seeking the following relief:-

“(i) allow the present Original application.

(ii) direct the respondent no.1 to declare the merit list for the recruitment of the ST category candidates for the post of primary teachers undertaken in pursuance to the Advertisement No. 2 of 2008 pertaining to post code No.16/08.

(iii) Consequently, direct the respondents to undertake all the necessary steps as the inaction of the respondents in withholding the results for the ST category is untenable in the law.”

5. In their reply, the respondents have submitted that in compliance of the judgment of Hon'ble Supreme Court in the case of **Subhash Chander & Ors. Vs. DSSSB & Ors.** (SLA(C) No. 24327/05) dated 04.08.2009 had not considered SC /ST candidates of other states as eligible for benefit of reservation for post under the Union Territory of Delhi. All such candidates were treated as general candidates and since their marks were below the cut off for that category, they were not short listed in the Part-I exam and their final result in the UR category could not be processed.

6. We have heard both sides and have perused the material placed on record. Learned counsel for the applicants argued that the applicants herein were similarly placed as **Ms. Babita Kumari & Ors.** (supra) whose case has been processed by the respondents as ST candidates pursuant to the order of Hon'ble High Court of Delhi in the case of **Deepak Kumar & Ors.** (supra). Learned counsel argued that the aforesaid judgment was a judgment of Full Bench of Hon'ble High Court, which had been rendered following the judgment of Hon'ble Supreme Court in the case of **S. Pushpa and Others Vs. Sivachanmugavelu and Others**, 2005 (3) SCC 1. In the aforesaid judgment it was held that ruling in **Pushpa's** case (supra) was on a specific issue of STs of one state moving to Union Territories and seeking the reservation in that Union Territory. It was also observed in the aforesaid judgment that the latter ruling of the Hon'ble Supreme Court in **Subhash Chander's** case (supra) cannot be said to have over ruled the judgment in **S. Pushpa's** case (supra) since **Subhash Chander's** judgment was given by a smaller Bench of two Judges.

6.1 Learned counsel for the applicants argued that this Tribunal has allowed several OAs following the judgment in **Deepak**

Kumar's case (supra). The applicants herein were similarly placed and deserve the same benefit.

6.2 Arguing for respondents, learned counsel Mrs. Sumedha Sharma stated that this O.A. pertains to selection held in the year 2009 and was filed 04 years later on 21.10.2013. Thus, it is barred by limitation.

6.3 As far as limitation is concerned, Hon'ble High Court of Delhi in **Ms. Nirmala's** case (supra) has already set aside the order of this Tribunal dismissing a similar O.A. on the grounds of limitation. Thus, this issue stands settled. Since the result of the ST category has still not been declared by the respondents, the question of limitation in this case does not arise.

6.4 As far as merits of the case are concerned, the respondents have not disputed that the applicants were similarly placed as petitioners in the case of **Ms. Babita Kumari** (supra), which was allowed by Hon'ble High Court of Delhi following the judgment in the case of **Deepak Kumar** (supra).

7. Accordingly, we allow this O.A. and direct the respondents to extend the benefit of the judgment of Hon'ble High Court of Delhi in the case of **Ms. Babita Kumari** (supra) to the applicants herein as well. This benefit shall be extended to them within a period of 60 days from the date of receipt of a certified copy of this order. No costs."

6. The case of **Puducherry** (supra) pertaining to Scheduled Castes of Union Territory of Pondicherry, wherein a Presidential Order was issued specifying certain casts as Scheduled Castes in the Union Territory of Pondicherry. Admittedly, the case on hand pertaining to the reservation under Scheduled Tribe category in Delhi, wherein no Presidential Order specifying any caste as Scheduled Tribe was issued till date. Hence, in our view the decision in **Puducherry** (supra) has no application to the facts of the present case.

7. In **Pappu Ram Meena & Others v. DSSSB** (WP(C) No.6872/2013, which was also disposed of along with the Writ Petition of **Ravindra Devi** (supra) by the same common order dated 27.11.2013, the Hon'ble High Court of Delhi, though held that "thus, as far as this Court is concerned, till it holds the field, the decision of

the Full Bench in Deepak Kumar's Case would hold the field and would have to be enforced", and allowed, however, dismissed the Writ Petition of **Pappu Ram Meena** (supra) on the ground of delay and latches by holding that no justifiable reasons were given for the delay in filing the Writ Petition, though their OA was dismissed one year nine months prior to the filing of the Writ Petition. Therefore, the Writ Petition of **Pappu Ram Meena** (supra) was dismissed on the ground of non-explanation of the delay occurred from the date of dismissal of the OA of **Pappu Ram Meena** to the date of filing of the WP, but not the delay in filing the OA itself. Hence, this decision has no application.

8. As observed by this Tribunal in **Ms. Rajni Meena** (supra), when a OA filed by one Ms. Nirmala was dismissed on the ground of limitation, the Hon'ble High Court set aside the said decision, and that the result of the ST category has still not been declared by the respondents, the question of limitation does not arise.

9. A perusal of **Ms. Rajni Meena** (supra) clearly indicates that the facts in these cases are identical to that of Rajni Meena and hence the said decision is squarely applicable to the present OAs.

10. In the circumstances and for the aforesaid reasons, the aforesaid OAs are allowed and the respondents are directed to extend the benefit of the Judgement of this Tribunal in the case of **Ms. Rajni Meena** (supra) to the applicants and to pass the

appropriate consequential orders within sixty days from the date of receipt of a copy of this order. No costs.

(Nita Chowdhury)
Member (A)

(V. Ajay Kumar)
Member (J)

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