

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

M.A.NO.2436 OF 2017

(In OA No.2128/17)

New Delhi, this the 4th day of August, 2017

CORAM:

HON^ØBLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER

AND

HON^ØBLE MS.NITA CHOWDHURY, ADMINISTRATIVE MEMBER

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1. Govt. of NCT of Delhi,
Through its Chief Secretary,
A-Wing, 5th Floor,
Delhi Secretariat, IP Estate,
New Delhi.
2. Delhi Subordinate Services Selection Board (DSSSB),
Through its Secretary,
FC-18, Karkardooma Institutional Area,
Delhi-92
3. The Secretary (Services),
GNCT of Delhi,
B-Wing, 7th Level, Delhi Secretariat,
I.P.Estate,
New Delhi **(Respondents in OA 2128/17)**í ..Petitioners

(By Advocate: Mr.Amit Anand)

Vrs.

Pooja Yadav,
D/o Sh.Satpal Yadav,
R/o H.N.213, Ahir Mohalla,Nangloi,
(Near V.P.O.),
New Delhi 110041 **(Applicant in OA 2128/17)**.....Opposite Party

(By Advocate: Mr.M.K.Bhardwaj)

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ORDER

Per Raj Vir Sharma, Member(J):

We have perused the records and have heard Mr.Amit Anand, the learned counsel appearing for the petitioners (respondents in OA No.2128/17), and Mr.M.K.Bhardwaj, the learned counsel appearing for the opposite party (applicant in OA No.2128/17).

2. Brief facts giving rise to MA No.2436/17 filed by the petitioners are as follows:

2.1 The opposite party is a candidate for recruitment examination for the post of Grade-II (DASS) in the Services Department of the Government of NCT of Delhi (Post Code 40/13) pursuant to the Advertisement No.3/13, dated 12.9.2013, issued by the Delhi Subordinate Services Selection Board (DSSSB). The Advertisement No.3/13 prescribed the examination scheme which consisted of Tier I and Tier II examinations, the syllabus, as well as the breakup of marks tier-wise and subject-wise, etc.

2.2 The DSSSB, vide **notice dated 2.6.2017**, amended/changed the examination scheme for the post of Grade II (DASS) and stipulated that the final selection shall be made based on merit in Tier II Examination.

2.3 When **Tier I examination** was scheduled to be held on **25.6.2017**, the opposite party filed OA No.2128 of 2017 on 16.6.2017 challenging the legality and validity of the said notice dated 2.6.2017 and praying for a direction to the petitioners to conduct the selection process in accordance with the examination scheme notified in the Advertisement No.3

of 2013. Interim relief was also sought by her for staying the operation of the impugned notice dated 2.6.2017 and/or for restraining the petitioners from conducting the Tier I examination scheduled to be held on 25.6.2017.

2.4 The Tribunal, by order dated 23.6.2017 passed in OA No.2128/17, rejected the opposite party's prayer for interim relief. However, the Tribunal directed the petitioners not to hold Tier II Examination without taking leave of the Tribunal or till the disposal of the O.A.

2.4.1 In its order dated 23.6.2017, the Tribunal observed that "there is merit in the contention of the respondents that the grievance of the applicant does not relate to Tier I Examination".

2.4.2 In its order dated 23.6.2017(ibid), the Tribunal directed the petitioners to file their counter reply within four weeks and the opposite party to file her rejoinder reply within two weeks thereafter. **The O.A. was also directed to be listed on 11.8.2017 for hearing.**

2.4.3 **The Tier I Examination was held on 25.6.2017**, as scheduled.

2.5 W.P. (C) No. 5488 of 2017 filed by the opposite party challenging the Tribunal's interim order dated 23.6.2017(ibid) was disposed of by the Hon'ble High Court of Delhi, vide its order dated 5.7.2017, the relevant part of which is reproduced below:

"We make it clear that the observations made by the Tribunal in the impugned order is tentative and shall not come in the way of either of the parties at the stage of final hearing of the Original Application before the Tribunal, which shall be considered on its own merits."

2.6 **The result of Tier I Examination was published by the DSSSB on 6.7.2017.**

2.6.1 The opposite party did not qualify in Tier I examination.

2.7 While the matter stood thus, **OA No.2274 of 2017** was filed by some other candidates, namely, Sushant Rao and others. Mr.M.K.Bhardwaj, the learned counsel appearing for the applicants therein, having brought to the notice of the Tribunal the interim order dated 23.6.2017 passed in OA No.2128 of 2017, the Tribunal, **by interim order dated 13.7.2017 passed in OA No.2274 of 2017, also issued a direction to the respondents not to hold Tier II Examination without taking leave of the Tribunal or till the disposal of the said O.A.**

2.7.1 **The Tribunal also directed OA No.2274 of 2017 to be listed on 11.8.2017, to which date OA No.2128 of 2017 was fixed for hearing, along with OA No.2128 of 2017.**

2.8 In OA No.2128 of 2017, the respondent-petitioners have filed the present MA No.2436 of 2017 praying for grant of leave for conducting Tier II examination. The respondent-petitioners have brought to the notice of the Tribunal an order dated 21.4.2017 passed by the Honøble High Court in W.P. (C) No. 8421 of 2016 (**M/s Shiv Bhole Sales Corporation Vs. GNCTD and others**) directing them to complete the process of recruitment to the post of Grade II (DASS) and some other posts in May-July of 2017. It has also been submitted by the respondent- petitioners that they are planning to hold the Tier II examination on 7.8.2017.

3. Resisting MA No.2436 of 2017, the opposite party (applicant in OA No.2128 of 2017) has filed a counter reply. It has, inter alia, been contended by the opposite party that when the validity and legality of the entire scheme of examination for recruitment to the post of Grade II (DASS) has been challenged in OA No.2128 of 2017; when, in view of the order dated 5.7.2017 passed by the Honøble High Court in WP (C) No. 5488 of 2017, her grievance with regard to Tier I examination subsists; and further when in OA No.2274 of 2017 the Tribunal has also directed the respondent-petitioners not to hold Tier II Examination without its leave or till the disposal of the said OA, MA No.2436 of 2017 filed by the petitioners in OA No.2128 of 2017 does not merit consideration and, hence, should be rejected.

4. After having given our thoughtful consideration to the facts and circumstances of the case, and the rival contentions, **we are, at present, not inclined to finally decide MA No.2436 of 2017 either allowing or rejecting the prayer made by the petitioners. Let MA No.2436 of 2017 lie over to be taken up for further consideration/disposal on 11.8.2017, to which date OA Nos. 2128 and 2274 of 2017 have already been directed to be listed for hearing.**

4.1 As directed by the Tribunal, vide interim orders dated 23.6.2017 and 13.7.2017 (referred to above), **OA Nos.2128 and 2274 of 2017 shall be listed for final hearing on 11.8.2017.**

4.1.1 In OA No.2128 of 2017 counter reply has been filed by the respondents on 26.7.2017. Counter reply, if any, and/or if not already filed, shall be filed by the respondents in OA No. 2274 of 2017 by 8.8.2017. Rejoinder replies, if any, shall be filed by the applicants in OA No.2128 of 2017 and 2274 of 2017 by 10.8.2017.

4.1.2 **It is made clear that no request for adjournment by either party shall be entertained on 11.8.2017, and that the matter shall be finally heard on 11.8.2017.**

5. The Registry of the Tribunal shall forthwith communicate copies of this order to the learned counsel appearing for the parties in OA Nos. 2128 and 2274 of 2017.

(NITA CHOWDHURY)
ADMINISTRATIVE MEMBER

(RAJ VIR SHARMA)
JUDICIAL MEMBER

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