

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

**O.A.NO.2479 OF 2014**  
**New Delhi, this the 19<sup>th</sup> day of January, 2016**

**CORAM:**

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

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Sh. Mangha Singh, aged about 54 years,  
s/o late Sh.Rayala Singh,  
R/o E-13, Surya Vihar,  
Delhi 94

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Applicant

(In person)

Vs.

1. Union Public Service Commission,  
through Secretary,  
Shahjahan Road,  
New Delhi
  
2. Director of Education,  
Directorate of Education,  
Old Secretariat,  
Sham Nath Marg,  
New Delhi.
  
3. The Secretary (Education),  
Old Secretariat, Sham Nath Marg,  
Delhi

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Respondents

(By Advocate: Mr.J.B.Mudgil)

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**ORDER****Raj Vir Sharma, Member(J):**

The applicant, a Scheduled Caste (SC) candidate for recruitment to the post of Principal in the Directorate of Education, Government of NCT of Delhi, pursuant to the Advertisement No.03( Item No.27), dated 13.2.2010, issued by the Union Public Service Commission (UPSC), is aggrieved by the notice published by the UPSC on 29.7.2013, wherein, on the basis of the screening/written test conducted on 29.4.2012, the roll numbers of candidates shortlisted for interview were mentioned, and the applicant's roll number did not find mention, and he was not shortlisted to be called for interview. He has filed the present O.A. under Section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs:

- ö(i) set aside and quash the impugned notice dt.29.7.2013 to the extent that Roll Number of the applicant was not included in the result and Applicant has not been called for appearing in interview for the post of Principal (Annexure A).
- (ii) direct the respondent to consider the case of the applicant for appointment as Principal in SC Category as per Govt. Rules which provides for relax standard.
- (iii) To direct the respondents to declare the result of the applicant and issue appointment letter to the applicant for the post of Principal.
- (iv) direct the respondents to grant all the consequential benefits like seniority, promotion and arrears to the applicant.
- (v) to pass any other order(s) as may be deemed just fit and proper in the facts and circumstances of the case.ö

2. The Tribunal, vide interim order dated 24.7.2014, directed that the applicant shall provisionally be allowed by the respondents to appear in the interview, and that the result of his interview shall be kept in sealed cover, which shall be opened only on the order of the Tribunal.

3. We have perused the records including the written notes of arguments filed by the applicant, and have heard the applicant in person, and Shri J.B.Mudgil, the learned counsel appearing for the respondent-UPSC.

4. The main contention of the applicant is that the decision of the respondent-UPSC to shortlist OBC candidates five times the number of vacancies reserved for OBC, and to shortlist SC candidates three times the number of vacancies reserved for SC, being discriminatory, is violative of Articles 14 and 16 of the Constitution of India. Therefore, the impugned notice, wherein 42 OBC candidates were shortlisted for interview against 9 vacancies reserved for OBC, and 38 SC candidates shortlisted for interview against 12 vacancies reserved for SC, is unsustainable in law and liable to be quashed.

4.1 It has also been contended by the applicant that several other candidates, who failed in the screening/written test, were shortlisted, interviewed, and selected by the respondent-UPSC, and were ultimately appointed by the respondent-Government of NCT of Delhi. This, according to the applicant, shows that the recruitment process has not been conducted

by the respondents in a fair manner and, therefore, the entire result of selection is liable to be interfered with by the Tribunal.

4.2 It has also been contended by the applicant that as he has already been interviewed, and the result of his interview has been kept in the sealed cover by the respondent-UPSC, on the basis of the interim order passed in the present O.A., the Tribunal should quash the entire result of selection and direct the respondents to open the sealed cover containing the result of his interview, and to take appropriate decision for his appointment to the post of Principal.

5. *Per contra*, Mr.J.B.Mudgil, the learned counsel appearing for the respondent-UPSC, has submitted that the UPSC is vested with the power to devise its autonomous mode of functioning and procedures objectively in just, equitable, and legal manner. Where the number of applications received in response to an advertisement is large, and it will not be convenient or possible for the UPSC to interview all the candidates, the UPSC, at their discretion, may restrict the number of candidates to a reasonable limit by any or more of the following methods:

- (a) On the basis of either qualifications and experience higher than the minimum prescribed in the advertisement, or
- (b) On the basis of experience in the relevant field, or
- (c) By counting experience before or after the acquisition of essential qualifications, or
- (d) By holding screening test.

In the instant case, 3732 applications were received by the UPSC. A screening/written test of total 100 marks was conducted by the UPSC to shortlist the candidates for interview. The UPSC fixed 56 marks for UR, 53 marks for OBC, 38 marks for SC, and 29 marks for ST candidates, as the minimum level of suitability marks (out of 100 marks in the screening/written test) to be shortlisted for interview. Accordingly, the candidates belonging to different categories, who met the said suitability criterion, were shortlisted for interview. The applicant, an SC candidate, having obtained 32 out of 100 marks in the screening/written test, did not meet the suitability criterion fixed for SC candidates, and was, therefore, not shortlisted for interview. Therefore, there was no infirmity in the impugned notice, and the O.A. is devoid of merit and liable to be dismissed.

6. After having given our anxious consideration to the facts and circumstances of the case, and the rival contentions, we have found no substance in any of the contentions raised by the applicant.

6.1 When out of 100 marks in the screening/written test, 53 marks were fixed for OBC candidates, and 38 marks were fixed for SC candidates to be suitable for being shortlisted to appear in the interview, the number of candidates belonging to both the said categories was necessarily to be determined with reference to the said suitability marks obtained by them in the screening/written test, and that is how, 42 OBC candidates who scored the suitability and above marks were shortlisted for interview as against 9

vacancies reserved for OBC, and 38 SC candidates who scored the suitability and above marks were shortlisted for 12 vacancies reserved for SC. Therefore, we are not inclined to accept the applicant's plea of discrimination.

6.2 Save and except mentioning the names and roll numbers of some of the candidates in support of his allegation that several candidates, who failed in the screening/written test, were shortlisted, interviewed, selected, and appointed in the process of recruitment, the applicant has not produced before this Tribunal cogent and convincing materials to substantiate the allegation. This apart, the persons named by him have not been impleaded as party-respondents in the present O.A. Therefore, we refrain ourselves from giving any comment on the said allegation made by the applicant.

6.3 In the above view of the matter, the impugned notice remains unassailable.

6.4 As the applicant was not entitled to be shortlisted for interview, we do not find any substance in his prayer to issue a direction to the respondent-UPSC to open the sealed cover containing the result of his interview, in which he was provisionally allowed to participate on the basis of the interim order passed by the Tribunal, and to select him for appointment to the post of Principal with all consequential benefits.

7. In the light of our above discussions, we hold that the O.A.,

being devoid of merit, is liable to be dismissed.

8. Resultantly, the O.A. is dismissed. The interim order dated 24.7.2014 stands vacated. No costs.

**(RAJ VIR SHARMA)**  
**JUDICIAL MEMBER**

**(SUDHIR KUMAR)**  
**ADMINISTRATIVE MEMBER**

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