

**CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH**

O.A.NO.2214 OF 2015

New Delhi, this the 22nd day of September, 2015

CORAM:

**HON'BLE SHRI SUDHIR KUMAR, ADMINISTRATIVE MEMBER
&**

HON'BLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER

.....

1. Shri Ashok Kumar Sehrawat,
s/o Shri Bharat Singh,
aged about 49 years,
R/o 195, Village Tilang Pur Kotla,
Post Office Nazafgarh,
New Delhi 43

2. Shri Shyam Mohit Sharma,
s/o Shri Satya Dev Sharma,
aged about 45 years,
R/o 4-1/278, Hastsal Road,
Uttam Nagar,
New Delhi 110059

3. Shri Dharmendra Kumar,
S/o Shri Ajeet Singh,
Aged about 39 years,
R/o RZ-93/17, Gali No.8,
Madan Puri, West Sagar Pur,
New Delhi 46

..... Applicants

(By Advocate: Mr.M.S.Reen)

Vs.

1. Chairman,
Delhi Subordinate Services Selection Board,
Govt. of NCT of Delhi,
I.P.Estate,
New Delhi
2. The Chief Secretary,
Govt. of NCT of Delhi,
Delhi Secretariat,
I.P.Estate,
New Delhi
3. The Chief Secretary,
Delhi Jal Board,
Jhandelwalan,
Karol Bagh,
New Delhi

(By Advocate: Mr.Amit Anand)

ORDER

RAJ VIR SHARMA MEMBER(D)

In response to Advertisement No.02/2012, vide Post Codes 48/12, 52/12 and 68/12 (Annexure A/2), issued by Delhi Subordinate Services Selection Board (hereinafter referred to as 'DSSSB'), inviting applications from eligible persons desirous of participating in the selection process for filling up 319 (UR-157, OBC-120, SC-42 including Ex-SM-60,

PH(OH)-05, PH(VH-06), PH(HH)-06) vacancies in the post of LDC in Delhi Jal Board, 3 (UR-03 reserved for ex-servicemen only) vacancies in the post of LDC (Male) in Rajya Sainik Board, Government of NCT of Delhi, and 924 (UR-589, OBC-214, SC-121 including Ex-SM-95, PH(OH)-09, PH(VH-09), PH(HH)-09. Sports person-49) vacancies in the post of Grade IV(DASS)/LDC in Services Department-III of GNCT of Delhi, the applicants, who are ex-servicemen, submitted their applications. The applicants appeared in the written examination conducted by the DSSSB on 16.11.2014. Result of the said written examination was declared by DSSSB, vide Result Notice No.312 dated 1.5.2015, along with the lists of candidates shortlisted in various categories for Skill Test (Annexure A/3). In the list of candidates shortlisted in ex-servicemen category for Skill Test, applicants' names appeared at sl.nos.21, 26 and 12 respectively.

2. It is the case of the applicants that in the result notice dated 1.5.2015 (Annexure A/3) it was mentioned stipulated that the candidates whose Roll Numbers were indicated in the Result Notice would be called for Skill Test (Typing Speed) separately. Despite such stipulation in the result notice, no information either by post, or SMS, or email indicating the date, time and venue of the Skill Test was issued by the DSSSB to them. The DSSSB conducted the Skill Test on and from 16.5.2015 to 24.5.2015 at Bhai Parmanand Institute of Business, Shankarpur, Delhi 110092, as per notice dated nil (Annexure A/1). This notice dated nil (Annexure A/1) was never communicated by the DSSSB to them. They came to know about the said

notice on 1.6.2015. Therefore, they made representations requesting the respondent no.1 to give them a chance to appear in the Skill Test. There being no response, the applicants filed the present O.A. on 22.4.2015 seeking the following reliefs:

- 88.1 That this Hon^{ble} Tribunal may graciously be pleased to allow this Original Application and set aside the impugned letter No.F.55 (1146)/DSSSB/ Exam/2015 dated Nil with all consequential benefits.
- 8.2 That this Hon^{ble} Tribunal may further graciously be pleased to allow this OA and direct the respondent no.1 to produce the relevant records pertaining to publication of notice to all shortlisted candidates for the post Codes 48/12, 52/12 and 68/12 öLDC in DJB, LDC(Male) in Rajya Sainik Board, GNCTD and Services Department, GNCT of Delhi vide their letter No.F.55(1146)/DSSSB/Exam/2015 dated Nil before this Hon^{ble} Tribunal.
- 8.3 That this Hon^{ble} Tribunal may graciously be pleased to direct the respondent no.1 to appoint the applicants for the post of LDC along with other selected candidates without any discrimination.
- 8.4 That any other or further relief, which this Hon^{ble} Tribunal may deem fit and proper under the circumstances of the case, may also be granted in favour of the applicants.
- 8.5 That the cost of the proceedings may also be awarded in favour of the applicants.ö

They also prayed for the following interim relief:

öTill the final disposal of the Original Application this Hon^{ble} Tribunal may graciously be pleased to as an interim measure, the respondent no.1 direct to conduct a supplementary skill test in respect of the applicants for the post codes 48/12, 52/12 and 68/12 in the interest of justice.ö

3. The Tribunal, vide order dated 23.6.2015, while directing issuance of notices to the respondents, ordered as an ad interim measure that respondent no.1 shall consider the request of the applicants for conducting separate Skill Test for them, and in the meantime the result will not be declared. Subsequently, the Tribunal passed orders on different dates directing the interim order dated 23.6.2015 (ibid) to continue till now.

4. Opposing the O.A., the respondents have filed a counter reply. It is stated by the respondents that the DSSSB issued online Admit Cards for both written examination and Skill Test. The DSSSB announced the date of Skill Test by issuing notice dated 1.5.2015. The instructions regarding downloading of Admit Cards for appearing in the Skill Test were available on the DSSSB's website. The said notice was widely advertised in all leading newspapers, apart from being uploaded on the website of the DSSSB. The result notice, which is referred to by the applicants, was also uploaded on the website of the DSSSB. The shortlisted candidates, who appeared in the Skill Test, followed the instructions available on the DSSSB's website and downloaded their Admit Cards for appearing in the Skill Test. By the result notice dated 1.5.2015, total 8748 candidates were shortlisted to appear in the Skill Test. More than 85% of the total shortlisted candidates appeared in the Skill Test. This shows that the DSSSB gave adequate publicity to the notice dated 1.5.2015 and sufficient notice period to the shortlisted candidates to download their Admit Cards from the website of the DSSSB to appear in the Skill Test. The DSSSB did not send postal

communication to any of the short-listed candidates. The Skill Test was held for 09 (nine) consecutive days on and from 16.5.2015 to 24.5.2015. Although it was mentioned in the result notice that candidates whose roll numbers were indicated in the result notice would be called for Skill Test (Typing Speed) separately, yet it was not stipulated therein that individual intimation would be given to those candidates. The applicants themselves admitted in their representation that ñdue to overlook of result noticeö they failed to appear in the Skill Test, which shows their negligence in downloading the Admit Cards from the DSSSBøs website to appear in the Skill Test. Therefore, the DSSSB, and the candidates, who duly appeared in the Skill Test, should not suffer for the negligence on the part of the applicants. In the above view of the matter, the respondents prayed for dismissal of the O.A.

5. In their rejoinder reply to the respondentsø counter reply, the applicants have reiterated more or less same averments and contentions as in their O.A.

6. MA No.2482 of 2015 was filed by the respondents seeking vacation/modification of the interim order dated 23.6.2015 (ibid) and permission to declare the result. In MA No.2482 of 2015, it is stated by the respondents that DSSSB, vide its notice dated 1.5.2015, called the shortlisted candidates to appear in the Skill Test. The said notice dated 1.5.2015 was published in all prominent newspapers. Clippings of newspapers, numbering 50 (fifty), containing the notice dated 1.5.2015

(ibid) have been filed along with MA No.2482 of 2015. This apart, the notice dated 1.5.2015 (ibid) was uploaded on the website of the DSSSB. It is also stated by the respondents that because of the interim order dated 23.6.2015 passed by the Tribunal in the present O.A. filed by the applicants, who are three in number, the result of 7474 candidates, who duly appeared in the Skill Test, has not been published by the DSSSB. Furthermore, the DSSSB has been requested by the user Departments to finalize the selection process as they are facing acute shortage of personnel. Along with MA No.2482 of 2015, the respondents have filed copies of letters addressed by the user Departments to the DSSSB. In the above view of the matter, the respondents prayed for vacation/modification of the interim order dated 23.6.2015 and for permitting the DSSSB to declare the result of the Skill Test and finalize the selection process.

7. In their counter reply to MA No.2482 of 2015, the applicants, besides reiterating more or less same averments and contentions as in the OA, have stated that as the DSSSB failed to comply with the interim order dated 23.6.2015, Contempt Petition No.470 of 2015 was filed by them, and that with a view to evade implementation of the interim order dated 23.6.2015, the respondents have filed MA No.2482 of 2015. Therefore, MA No.2482 of 2015 is liable to be dismissed.

8. We have perused the records, and have heard Mr.M.S.Reen, learned counsel appearing for the applicants, and Mr. Amit Anand, learned counsel appearing for the respondents.

9. Mr.M.S.Reen, learned counsel appearing for the applicants, invited our attention to the result notice (Annexure A/3 to the O.A.), the list of candidates short-listed in ex-servicemen category for Skill Test appended to the said result notice, and the representation made by the applicants on 1.6.2015 (Annexure A/4), and contended that in view of the facts that no intimation regarding Skill Test was given by the DSSSB to the applicants, and that only 27 ex-servicemen candidates were short-listed against approximately 150 vacancies to appear in the Skill Test, the DSSSB ought to have conducted a separate Skill Test and allowed the applicants to appear therein.

10. *Per contra*, Mr.Amit Anand, learned counsel appearing for the respondents, submitted that no individual intimation was sent to any of the short-listed candidates to appear in the Skill Test, and that the applicants admitted in their representations that they overlooked the notice dated 1.5.2015 regarding the Skill Test. Mr.Amit Anand invited our attention to the clippings from prominent newspapers publishing the notice for Skill Test in English, Hindi and Urdu, and submitted that if any of the short-listed candidates, like the applicants, failed to follow the instructions and to download the E-Admit Card from the DSSSB's website for appearing in the Skill Test conducted on and from 16.5.2015 to 24.5.2015, neither such candidate can legally claim for holding of separate Skill Test, nor can the DSSSB entertain the request of such candidate and conduct separate Skill Test for him/her in clear violation of the terms and conditions contained in

the notice dated 1.5.2015, which are binding on the short-listed candidates and the DSSSB as well. It was also submitted by Mr. Amit Anand that if the request of any short-listed candidate, as made by the applicants in the present O.A, is entertained and a separate Skill Test is conducted by DSSSB, other short-listed candidates, who failed to download the E-Admit Cards and to appear in the Skill Test, will go on making such request from time to time, and in such event, the finalization of the selection process will be unduly delayed, thus and thereby prejudicially affecting the short-listed candidates who duly appeared in the Skill Test and are awaiting their result, and vitiating the entire gamut of selection process.

11. In the instant case, admittedly the result notice no.312, dated 1.5.2015 (Annexure A/3), was published on 1.5.2015 along with the lists of candidates short-listed for Skill Test on the basis of marks obtained in the written examination. The said result notice dated 1.5.2015 was also uploaded on the website of the DSSSB. Although it was mentioned in the said result notice that candidates whose roll numbers were indicated in the result notice would be called for Skill Test (Typing Test) separately, yet on the same date, i.e., 1.5.2015, the notice for Skill Test was also published and uploaded on the website of the DSSSB. For the purpose of clarity, the said notice for Skill Test, dated 1.5.2015, is reproduced below:

GOVT. OF NCT OF DELHI
DELHI SUBORDINATE SERVICES SELECTION BOARD
FC-18, Institutional Area, Karkardooma, Delhi 110092
www.dsssb.delhigovt.nic.in

No.F.55(1146)/DSSSB/EXAM/2015/1299 Date 01.05.2015

**NOTICE FOR SKILL TEST FOR THE POST OF LDCs.
(POST CODE 48/12, 52/12, 68/12)**

Based on the performance in One Tier written examination held on 16.11.2014, candidates have been short-listed provisionally and are, thus, being called for the SKILL TEST (typing) subject to their fulfilling all conditions of eligibility and also correctness of the information furnished by the candidates in their applications.

- The Skill Test of these short-listed candidates will be held w.e.f. 16.05.2015 to 24.05.2015 at Bhai Parmanand Institute of Business Studies, Shakarpur (EXTN.), Delhi 110092 (opposite PNB (Madhuban Colony, New Mandawali Railway Underpass, nearest Metro Station (Nirman Vihar).
- Skill Test will be qualifying nature.
- The e-admit card of the shortlisted candidates of One Tier examination for the above mentioned post codes are being uploaded on the website of DSSSB i.e. www.dsssb.delhigovt.nic.in
- The eligible candidates may download their e-admit card w.e.f. 07.05.2015, 10.00 a.m. to 15.05.2015 upto 11.59 p.m. Date and Reporting time of the skill test is mentioned in the Admit card.
- Detailed instructions to download e-admit cards are given on the official website of the Board. In case any candidate of post codes finds difficulties in downloading the e-admit card he/she may contact the Board Office on Telephone No.22379204/23370307 or e-mail at addsssb.delhi@nic.in upto 14.05.2015 till 5.00 p.m.
- Any Updation/corrigendum with regard to above mentioned test will be displayed on the website of the DSSSB.
- No candidates without e-admit card and ID proof (in original) shall be allowed to enter the test venue.
- Candidates are directed to follow the detailed instructions as available on the website of DSSSB www.dsssb.delhigovt.nic.in
- A separate notification for visually impaired candidates would be brought out.

Sd/

Dy. Controller of Exam: DSSSB.ö

Besides uploading the above notice for Skill Test on its website, the DSSSB also got it published in almost 50 (fifty) newspapers in English, Hindi, and

Urdu (Annexure MA-1 to MA No.2482 of 2015). In view of this, and in view of the fact there was no stipulation in the result notice dated 1.5.2015 (Annexure A/3) that individual intimation would be sent to the short-listed candidates to appear in Skill Test, we do not find any substance in the contention of the applicants that they did not get any information regarding the date, time, and venue for the Skill Test. The applicants themselves admitted in their representations that they overlooked the notice. In terms of the said notice for Skill Test, as the applicants failed to download the E-Admit Cards for appearing in the Skill Test, they cannot claim for holding of separate Skill Test for them, which was not stipulated in the result notice. Therefore, no fault can be found with the DSSSB for not holding separate Skill Test for the applicants.

12. **In Union Public Service Commission v. GNCTD, WP (C) No.10058 of 2009**, decided on 25.1.2010, the challenge was to the order of the Tribunal directing the UPSC to consider the candidatures of some applicants even though their Detailed Application Forms (DAFs) were incomplete. The Division Bench of the Hon'ble High Court of Delhi held thus:

025. With such a large number of DAFs having been received by the UPSC, it is impracticable to expect the UPSC to give a go by to the instructions that have categorically and specifically been mentioned in the advertisements issued by it. It is one thing to say that procedure is a handmaid of justice but it is another thing, in practical life, to give procedure a complete go by for the sake of accommodating a few people. If this is done, then there would be no obligation on anybody to follow any procedure resulting in a completely unmanageable situation.

26. If the submission made by learned counsel for the respondents is placed on a larger canvas (since the UPSC conducts dozens of such examinations annually), one can well imagine the resultant chaos. For example, it is well known that the UPSC receives lakhs of applications for the Central Civil Services examination. If every such applicant submits an incomplete application, that is to say that the relevant information is not submitted along with the application, the processing time for the UPSC would take several months and would, in the long run, be completely counterproductive. Consequently, in our opinion while it is true that procedure is the handmaid of justice, it is not possible to ignore practical difficulties that may arise in a given case.ö

13. **In Secretary, Union Public Service Commission and another v. S.Krishna Chaitanya**, (2011) 14 SCC 227, the Hon'ble Supreme Court held that the negligence on the part of the respondent-candidate has resulted into his sufferance and he himself is only to be blamed for the events.

14. **In Sachin Kumar Rana v. Union of India and others**, W.P. (C) No. 7198 of 2014, decided on 17.10.2014, the Hon'ble High Court of Delhi held that considering the fact that the petitioner failed to complete the application form either due to his carelessness, ignorance or negligence, he has not made out any case for exercise of the writ jurisdiction of the Court.

15. **In Shri N.K.Joshi v. Union Public Service Commission**, O.A.No.33/2011, decided on 11.1.2011, the Tribunal held thus:

öThe Respondent, UPSC has to conduct very large number of examinations, in which millions of candidates appear. It is, therefore, necessary for them to insist that the rules regarding submission of application forms, including their submissions in time, should be followed strictly. If it is not insisted upon, it can lead to sheer administrative chaos. The Tribunal would normally not interfere in such a matter, unless it

is demonstrated unambiguously and on the basis of solid facts that the respondent had indulged in serious irregularities. The Applicant has merely given a fanciful account of events without any basis of facts.º

16. **In Gudipati Gayatri Kashyap, etc., v. The Secretary, Union Public Service Commission, etc., OA No.2767 of 2014 and five connected O.As., decided on 21.11.2014,** the Tribunal, after finding that the applicants had not completed and finally submitted Part II of the online applications, held that they could not be treated as candidates for the examination. Accordingly, the Tribunal declined to interfere with the decision of the UPSC holding the applicants as not candidates for the examination. The Honøble High Court of Delhi, upholding the said decision of the Tribunal, dismissed W.P. (C) Nos.8319 of 2014 and another connected writ petition, decided on 28.11.2014 (**Satish Kumar, etc. v. Union Public Service Commission and another, etc.**) filed by the applicant-petitioners.

17. We would also like to observe here that acceding to the applicantsº request and holding of a separate Skill Test for them by the DSSSB would not only be contrary to the terms and conditions of the aforesaid notice for Skill Test, which are binding on all the short-listed candidates and the DSSSB as well, but also violative of Articles 14 and 16 of the Constitution. There might be some other candidates, like the applicants in the present case. Non-grant of similar opportunity to those candidates would be discriminatory. As has been rightly contended by Mr.Amit Anand, learned counsel appearing for the respondents, if the request of any short-listed candidate, as made by the applicants in the

present O.A. is entertained and a separate Skill Test is conducted by the DSSSB, other short-listed candidates, who failed to download E-Admit Cards and to appear in the Skill Test, will go on making such request from time to time, and in such event, the finalization of the selection process will be unduly delayed, thus and thereby prejudicially affecting the short-listed candidates who duly appeared in the Skill Test and are awaiting their result, and vitiating the entire gamut of selection process.

18. In the light of our above discussions, we hold that the O.A., being devoid of merit, is liable to be dismissed. Accordingly, the O.A. is dismissed. MA No.2482 of 2015 filed by the respondents for vacating the interim order dated 23.6.2015 is disposed of. The interim order dated 23.6.2015 stands vacated. The respondents shall publish the result of the Skill Test and finalize the selection process as early as possible.

19. The Registry of the Tribunal, besides communicating copies of this order to the learned counsel appearing for both sides, shall send a copy of this order to respondent no.1 by Speed Post in course of the day,

20. No costs.

(RAJ VIR SHARMA)
JUDICIAL MEMBER

(SUDHIR KUMAR)
ADMINISTRATIVE MEMBER