

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.3528 OF 2014

New Delhi, this the 21st day of March, 2016

CORAM:

**HON'BLE SHRI SUDHIR KUMAR, ADMINISTRATIVE MEMMBER
AND**

HON'BLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER

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Naseema Khan,
D/o Mohd. Nazir Khan,
R/o B11/118, Main Market,
Punjabi Gali, Jamia Nagar,
Okhla, New Delhi 110025

í í Applicant

(By Advocate: Mr.Sanobar Ali)

Vs.

Secretary,
Delhi Subordinate Services Selection Board (DSSSB),
FC-18, Institutional Area, Karkardooma,
Near Railway Reservation Centre,
Delhi 92

í í .. Respondent

(By Advocate: Ms.Rashmi Chopra)

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ORDER

Raj Vir Sharma, Member(J):

The applicant has filed the present O.A. seeking the following reliefs:

- õa. pass an order thereby directing the respondent to make 5% relaxation in rules and regulations regarding 50% marks in Sr. Secondary (10+2) or Intermediate in appointment of Primary Teacher Urdu in MCD vide post

code 69/09 in ST Category and further direction to issue appointment letter to the applicant as Teacher Primary Urdu consequently, quash the rejection notice dated 01.03.2014 vide office order no.323.

- b. Pass any other or further order(s) which this Honøble Court may deem fit and proper in the facts and circumstances of the case in the interest of justice.ö

2. The respondent-DSSSB has filed a counter reply opposing the O.A. The applicant has filed a rejoinder reply thereto.

3. We have perused the records, and have heard Mr.Sanobar Ali, the learned counsel appearing for the applicant, and Ms. Rashmi Chopra, the learned counsel appearing for the respondent.

4. The brief facts of the case, which are not disputed by either side, are that the Delhi Subordinate Services Selection Board (DSSSB) issued the Advertisement No.004/2009, for recruitment to 200 (UR-82, OBC-62, SC-37, ST-19) posts of Teacher (Primary-Urdu) in MCD, vide Post Code 69/09. The Advertisement stipulated the following essential qualifications for the post of Teacher (Primary-Urdu) in MCD:

- ö1. Sr. Secondary (10+2) or Intermediate or its equivalent with 50% marks from a recognized Board.
2. Two years diploma/Certificate course in ETE/JBT or B.El.Ed. from recognized institutions or its equivalent.
3. Must have passed Urdu as a subject at Secondary levelö.

The applicant passed Senior School Certificate (Class XII) Examination, 2007, from Jamia Millia Islamia, New Delhi, by scoring 48.80% marks (244 out of 500 marks). In response to the Advertisement, *ibid*, the applicant applied for selection and recruitment to the post of Teacher (Primary-Urdu) as an ST candidate. She appeared in the written examination conducted by

the DSSSB on 28.4.2013, and obtained 86.50 marks therein, vide result notice dated 4.7.2013. Thereafter, the DSSSB issued office order No.323 dated 1.3.2014, whereby a rejection notice was published by them rejecting the candidatures of the applicant and 73 other candidates for the post of Teacher (Primary-Urdu), Post Code 069/09, due to various reasons shown against their names. The applicant's name appeared at sl.no.32 of the list of candidates whose candidatures were rejected. Her candidature was shown to have been rejected on account of her having obtained less than 50% marks in 12th class. Hence, she has filed the present O.A.

5. It is contended by the applicant that prescription of 50% marks in the Senior Secondary (10+2), or Intermediate, or its equivalent, for all categories of candidates is violative of the Constitutional provisions, and instructions issued by the Government, under which the eligibility and suitability of SC and ST candidates have to be adjudged by a relaxed standard of selection procedure. Although she obtained less than 50% marks in the Senior School Certificate (Class XII) Examination, the Jamia Millia Islamia, New Delhi, granted relaxation in the cut-off marks, and allowed her admission to ETE Course, and BA Honours (Urdu) Course. The relaxation in the cut-off marks being permissible, the DSSSB, taking into consideration the fact that she obtained 86.50 marks in the written examination, ought not to have rejected her candidature. Therefore, according to the applicant, the rejection of her candidature is arbitrary and illegal.

6. *Per contra*, it is contended by the DSSSB that the applicant, who was well aware of the eligibility criteria stipulated in the Advertisement, participated in the selection process without any protest. She complained of the alleged illegality in the prescription of 50% marks in the Senior Secondary (10+2), or Intermediate, or its equivalent, only after her candidature was rejected on account of her obtaining less than 50% marks in the said examination. The Recruitment Rules for the post of Teacher (Primary-Urdu) do not provide for relaxation in the said cut-off marks of 50% in the case of SC or ST candidates. The DSSSB, being the recruiting agency, cannot change the eligibility criteria prescribed in the Recruitment Rules and the Advertisement. Therefore, there is no infirmity in the rejection of the candidature of the applicant.

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

8. It is the admitted position between the parties that the essential qualifications stipulated in the Advertisement, *ibid*, are the same as prescribed in the Recruitment Rules for the post of Teacher (Primary-Urdu) in MCD. The applicant has not produced before us any rule, or instructions issued by the appropriate authority, stipulating that the recruiting agency can relax the essential qualifications in the case of SC/ST candidates, though the Recruitment Rules and the Advertisement do not provide for such relaxation. Furthermore, when the applicant participated in the selection process

without any protest against the prescription of 50% marks in the Senior Secondary (10+2), or Intermediate, or its equivalent, she cannot be allowed to raise a voice against the same, after her candidature was rejected by the DSSSB on account of her obtaining less than 50% marks in the Senior School Certificate (Class XII) Examination. The relaxation granted to the applicant by the concerned institute at the time of admission to ETE/B.A.(Honours) Course neither makes her eligible for selection and recruitment to any post, for which 50% marks in the Senior School Certificate (Class XII) Examination were prescribed as the cut-off marks, nor does the same clothe her with a right to claim similar relaxation for selection and recruitment to any post. As the applicant did not obtain 50% marks in the Senior School Certificate (Class XII) Examination, and did not fulfill one of the essential qualifications prescribed in the Recruitment Rules and Advertisement, *ibid*, she cannot be allowed to question the rejection of her candidature. A process of selection and appointment to a public office should be absolutely transparent, and there should be no deviation from the terms and conditions contained in the Advertisement issued by the recruiting agency during the recruitment process and the rules applicable to the recruitment process in any manner whatsoever, for a deviation in the case of a particular candidate amounts to gross injustice to the other candidates not knowing the fact of deviation benefitting only one or a few. The procedure should be same for all the candidates. Had the relaxation, as claimed by the applicant in the present case, been provided for in the Recruitment Rules and

the Advertisement, *ibid*, several persons, who are similarly placed as the applicant in the present case, would have participated in the selection process, but for the prescription of 50% marks in the Senior Secondary (10+2), or Intermediate, or its equivalent. Hence, the acceptance of the applicant's plea would be tantamount to denial of equal opportunity to those candidates in the matter of recruitment to the post of Teacher (Primary-Urdu) in MCD. In the above view of the matter, we are not inclined to accept the applicant's plea of relaxation in the cut-off marks of 50% in the Senior Secondary (10+2), or Intermediate, or its equivalent. Therefore, the rejection of the applicant's candidature remains unassailable.

9. In the light of our above discussions, we do not find any merit in the O.A. Accordingly, the O.A., being devoid of merit, is dismissed. No costs.

(RAJ VIR SHARMA)
JUDICIAL MEMBER

(SUDHIR KUMAR)
ADMINISTRATIVE MEMBER

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