

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A.NO.2840 OF 2016

New Delhi, this the 21st day of December, 2017

CORAM:

**HON'BLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER
AND
HON'BLE MS.PRAVEEN MAHAJAN, ADMINISTRATIVE MEMBER**

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Virendra Kumar Choudhary,
Aged 30 years,
s/o Sh.Chhitar Mal Jat,
R/o Vill Bhuranpura Jatan, Via Achrol,
Post Rajpur, Tesh. Jamwarangarh, Distt. Jaipur (Raj)....Applicant

(By Advocate: Mr. Yogesh Sharma)

Vs.

1. Govt. of NCT of Delhi,
Through the Chief Secretary,
New Secretariat, New Delhi.
2. The Directorate of Education,
Govt. of NCT of Delhi,
Old Secretariat,
Delhi.
3. The Secretary,
Delhi Subordinate Services Selection Board,
Govt. of NCT of Delhi,
F-18, Institutional Area,
Karkardoma, Delhi-92 Respondents.

(By Advocate:Ms.Alka Sharma)

ORDER

Per RAJ VIR SHARMA, MEMBER(J):

The applicant has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs:

“(i) That the Hon’ble Tribunal may graciously be pleased to pass an order of quashing the impugned order dated 1.8.2016 by which the candidature of the applicant for the post of TGT (Natural Science) has been cancelled declaring to the effect that the same is illegal and arbitrary and consequently pass an order directing the respondent to declare the result of the applicant

and consequently to pass an appropriate order for appointment of the applicant to the post of TGT (Natural Science)(Male) from the date of appointment of junior and similarly situated persons with all consequential benefits including seniority, arrears of difference of pay and allowances.

(ii) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicant.”

2. Resisting the O.A., the respondents have filed a counter reply.

The applicant has filed a rejoinder reply refuting the stand taken by the respondents.

3. Brief facts of the case, which are not in dispute, are that in response to the Advertisement No.01/13 (Post Code 10/13) issued by the respondent-Delhi Subordinate Services Selection Board (DSSSB), the applicant made application as an UR candidate for selection and recruitment to the post of TGT (Natural Science) (Male) in the Directorate of Education, Government of NCT of Delhi. He duly appeared in the recruitment examination and scored 82.75 marks therein. He was declared successful in the recruitment examination and was called by the respondent-DSSSB for verification of documents. Accordingly, he appeared and submitted all the required documents including the Eligibility Certificate issued by the Central Board of Secondary Education declaring the applicant to have qualified the ‘Central Teacher Eligibility Test (CTET) – November 2012’, for verification by the respondent-DSSSB. Thereafter, the respondent-DSSSB published and uploaded on their website Rejection Notice No.56 dated 1.8.2016(Annexure A/1) declaring the applicant as ‘Not Eligible’ and rejecting his candidature on the ground of ‘CTET no qualified’.

4. In the above context, it has been submitted by Mr. Yogesh Sharma, the learned counsel appearing for the applicant that the respondent-DSSSB has acted arbitrarily and illegally in declaring the applicant as ineligible and rejecting his candidature on the ground of his not having qualified the CTET conducted by the Central Board of Secondary Education. Mr. Yogesh Sharma invited our attention to the copy of the Eligibility Certificate (Annexure A/3) issued by the CBSE and submitted that the applicant belongs to JAT community which was earlier recognized as OBC. When the applicant appeared as an OBC candidate at the CTET conducted by the CBSE, Delhi, in November 2012 and was declared to have qualified the CTET, his OBC status was subsisting. Therefore, in the Eligibility Certificate issued by the CBSE, his category was mentioned as 'OBC'. Subsequently, the notification declaring JAT community was quashed by the Hon'ble Supreme Court. The qualification of CTET already acquired by the applicant in the year 2012 cannot be said to have been wiped out. Thus, the respondent-DSSSB ought not to have declared the applicant as ineligible and rejected the applicant's candidature on the ground of his not having qualified CTET.

5. *Per contra*, it has been contended by Ms. Alka Sharma, the learned counsel appearing for the respondents that the applicant had scored 83 marks in the CTET conducted by the CBSE and was declared as having qualified the CTET under OBC category. A candidate had to score 90 marks out of total 150 marks in the CTET, i.e., 60% of the total marks. As the

applicant was considered for selection as an UR candidate and he did not score 60% of the total marks, i.e., 90 out of 150 marks in the CTET, there was no infirmity in the decision taken by the respondent-DSSSB declaring the applicant as ineligible and rejecting his candidature for selection as an UR candidate.

6. After having given our thoughtful consideration to the rival contentions, we have found considerable force in the contentions of the applicant.

7. Admittedly, the applicant has qualified the CTET conducted by the CBSE in the year 2012. There is no stipulation in the Advertisement that if any candidate, applying for selection as an UR candidate, had earlier appeared as an OBC candidate in the CTET conducted by the CBSE and had qualified the same, and his status had been changed from OBC to UR subsequent to his/her qualifying the CTET and as on the date cut-off date prescribed for making application, he/she would be treated to have not qualified the CTET conducted by the CBSE and would not be eligible for selection as an UR candidate and his/her candidature would be liable to be rejected. Therefore, the impugned rejection notice (Annexure A/1), qua the applicant, is unsustainable and liable to be interfered with. Accordingly, we hold and declare that the applicant, having qualified the CTET conducted by the CBSE, which is prescribed in the Advertisement as one of the essential qualifications, is eligible to be considered for selection and recruitment to

the post of TGT (Natural Science) (Male) as an UR candidate on the basis of marks scored by him in the recruitment examination.

8. In the light of what has been discussed above, we quash the impugned rejection notice (Annexure A/1), qua the applicant, and direct the respondent-DSSSB to declare the result of the applicant as an UR candidate for selection and recruitment to the post of TGT (Natural Science) (Male) (Post Code 10/13, Advertisement No.01/13). We further direct that in the event the applicant is selected and nominated by the respondent-DSSSB, the respondent-Department shall appoint him to the post of TGT (Natural Science)(Male) and grant him all service benefits on notional basis with effect from the date of appointment of his junior in the select/merit list of UR candidates. It is made clear that the applicant shall not be entitled to any arrears of pay and allowances. The entire exercise shall be completed by the respondents within three months from today.

9. Resultantly, the O.A. is partly allowed to the extent indicated above. No costs.

(PRAVEEN MAHAJAN)
ADMINISTRATIVE MEMBER

(RAJ VIR SHARMA)
JUDICIAL MEMBER

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