Central Administrative Tribunal
Principal Bench
New Delhi

O.A.No.4445/2014
with
O.A.No.4591/2014
O.A.No.4592/2014
O.A.No.4593/2014
O.A.No.4595/2014
O.A.No.4596/2014
O.A.No.4597/2014
O.A.No.4598/2014
O.A.No.4599/2014
O.A.No.4600/2014
O.A.No.4604/2014
O.A.No.4607/2014
O.A.No.4608/2014
O.A.No.4611/2014
O.A.No.4612/2014
O.A.No.4613/2014
O.A.No.4615/2014
O.A.No.4587/2014

Order Reserved on: 02.12.2015
Order pronounced on 18.12.2015

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Dr. B.K.Sinha, Member (A)

O.A.No.4445/2014:

Neha Nagar
Aged 30 years
D/o Sh. Indu Bhushan Nagar
R/o 82, Radhey Puri Extn-2
Krishna Nagar,
Delhi – 110 051
(Unemployed [House Wife]) ... Applicant

(By Advocate: Sh. Anurag Nagar)

Versus

Delhi Subordinate Services Selection Board (DSSSB) & Ors.
FC-18, Institutional Area
Karkardooma
(Near Railway Reservation Centre)
Delhi – 110 092. ... Respondent

(By Advocate: Shri K.M.Singh)

O.A.No.4591/2014:

Satendra Kumar Singh
Age 28 years,
applied for Post TGT (Maths) Male[Post Code No.08/13]
S/o Sh. Momraj Singh
R/o CPB-22, New Seelam Pur
Delhi – 110 053. ... Applicant

(By Advocate:Sh. Sachin Kumar Jain)

Versus

1. Delhi Subordinate Service Selection Board
   Through its Secretary
   FC-18, Institutional Area
   Karkardooma
   Delhi – 110 092.

2. Govt. of NCT Delhi
   Directorate of Education
   Old Pattachor Building, Lucknow Road,
   Timar Pur, Delhi-110 054. .. Respondents

(By Advocate: Shri K.M.Singh)

O.A.No.4592/2014:

Munesh Pal, age 26 years
S/o Dharampal Singh
House No.136A
Gali No.-4/2, Karawal Nagar Extn.
Delhi – 110 094. ... Applicant

(By Advocate:Sh. Sachin Kumar Jain)

Versus

1. Delhi Subordinate Service Selection Board
   Through its Secretary
   FC-18, Institutional Area
   Karkardooma
   Delhi – 110 092.

2. Govt. of NCT Delhi
   Directorate of Education
   Old Pattachor Building, Lucknow Road,
   Timar Pur, Delhi-110 054. .. Respondents

(By Advocate: Shri K.M.Singh)

O.A.No.4593/2014:

Madhu Bala, Age 24 years,
D/o Dharmbir
R/o VPO Sidipur Lawa
Tehsil Bahadurgarh
Distt. Jhajjar, Haryana. ... Applicant

(By Advocate:Sh. Sachin Kumar Jain)

Versus

1. Delhi Subordinate Service Selection Board
   Through its Secretary
   FC-18, Institutional Area
   Karkardooma
   Delhi – 110 092.

2. Govt. of NCT Delhi
   Directorate of Education
   Old Pattachor Building, Lucknow Road,
   Timar Pur, Delhi-110 054. .. Respondents

(By Advocate: Shri K.M.Singh)

O.A.No.4595/2014:

Preeti, age 28 years
D/o Sh. Dilbagh
R/o Ward No.2

Shastri Nagar, Kharkhoda
Distt. Sonipat
Haryana. .... Applicant

(By Advocate:Sh. Sachin Kumar Jain)

Versus

1. Delhi Subordinate Service Selection Board
   Through its Secretary
   FC-18, Institutional Area
   Karkardooma
   Delhi – 110 092.

2. Govt. of NCT Delhi
   Directorate of Education
   Old Pattachor Building, Lucknow Road,
   Timar Pur, Delhi-110 054. .. Respondents

(By Advocate: Shri K.M.Singh)

O.A.No.4596/2014:

Sushila Kumari, age 27 years
D/o Sh. Manbhar Singh
R/o Plot No.12
Road No.5
D-Block
Shyam Vihar, Ph-1
Deenpur
Delhi – 110 071. ... Applicant

(By Advocate:Sh. Sachin Kumar Jain)

Versus

1. Delhi Subordinate Service Selection Board
   Through its Secretary
   FC-18, Institutional Area
   Karkardooma
   Delhi – 110 092.
2. Govt. of NCT Delhi
   Directorate of Education
   Old Pattachor Building, Lucknow Road,
   Timar Pur, Delhi-110 054. .. Respondents

(By Advocate: Shri K.M.Singh)

O.A.No.4597/2014:

Gaurav Kumar Sharma, age 26 years
S/o Sh. Radhey Shyam Sharma
R/o Old Grain Mandi Road
Khatri Mohalla, City & District
Sawai Madhopur, Rajasthan. ... Applicant

(By Advocate:Sh. Sachin Kumar Jain)

Versus

1. Delhi Subordinate Service Selection Board
   Through its Secretary
   FC-18, Institutional Area
   Karkardooma
   Delhi – 110 092.

2. Govt. of NCT Delhi
   Directorate of Education
   Old Pattachor Building, Lucknow Road,
   Timar Pur, Delhi-110 054. .. Respondents

(By Advocate: Shri K.M.Singh)

O.A.No.4598/2014:

Mohd. Azhar, age 27 years
S/o Sardar Hussain
R/o 8154, First Floor
Street No.5
Chimini Mill
Bara Hindu Rao, Delhi. ... Applicant

(By Advocate:Sh. Sachin Kumar Jain)

Versus

1. Delhi Subordinate Service Selection Board
   Through its Secretary
   FC-18, Institutional Area
   Karkardooma
   Delhi – 110 092.

2. Govt. of NCT Delhi
   Directorate of Education
   Old Pattachor Building, Lucknow Road,
   Timar Pur, Delhi-110 054. .. Respondents

(By Advocate: Shri K.M.Singh)

O.A.No.4599/2014:

Mahesh Kumar, Age 26 years
S/o Sh. Mani Ram
R/o Plot No.12
Road No.5, D-Block
Shyam Vihar, Ph-1, Deenpur
Delhi – 110 071. ... Applicant

(By Advocate:Sh. Sachin Kumar Jain)

Versus

1. Delhi Subordinate Service Selection Board
   Through its Secretary
   FC-18, Institutional Area
   Karkardooma
   Delhi – 110 092.

2. Govt. of NCT Delhi
   Directorate of Education
   Old Pattachor Building, Lucknow Road,
   Timar Pur, Delhi-110 054. .. Respondents

(By Advocate: Shri K.M.Singh)

O.A.No.4600/2014:

Reeta, age 33 years
D/o Mahendra Singh
R/o B-131, Gali No.7
Hardev Puri
Shahadra
Delhi – 110 093. ... Applicant

(By Advocate:Sh. Sachin Kumar Jain)

Versus

1. Delhi Subordinate Service Selection Board
   Through its Secretary
   FC-18, Institutional Area
   Karkardooma
   Delhi – 110 092.

2. Govt. of NCT Delhi
   Directorate of Education
   Old Pattachor Building, Lucknow Road,
   Timar Pur, Delhi-110 054. .. Respondents

(By Advocate: Shri K.M.Singh)

O.A.No.4604/2014:

Sandeep Tomer, age 26 years
S/o Sh. Rajindra Singh
R/o D-11, West Jyoti Nagar
Shahadara, Delhi – 110 094. ... Applicant

(By Advocate:Sh. Sachin Kumar Jain)

Versus

1. Delhi Subordinate Service Selection Board
   Through its Secretary
   FC-18, Institutional Area
   Karkardooma
   Delhi – 110 092.

2. Govt. of NCT Delhi
   Directorate of Education
   Old Pattachor Building, Lucknow Road,
   Timar Pur, Delhi-110 054. .. Respondents

(By Advocate: Shri K.M.Singh)

O.A.No.4607/2014:

Pankaj Kumar Deshwal, Age 26 years
S/o Sh. Phool Singh Deshwal
R/o Rz-198, 1/15

Tughlakabad Extension
New Delhi – 110 019. ... Applicant

(By Advocate:Sh. Sachin Kumar Jain)

Versus

1. Delhi Subordinate Service Selection Board
   Through its Secretary
   FC-18, Institutional Area
   Karkardooma
   Delhi – 110 092.

2. Govt. of NCT Delhi
   Directorate of Education
   Old Pattachor Building, Lucknow Road,
   Timar Pur, Delhi-110 054. .. Respondents

(By Advocate: Shri K.M.Singh)

O.A.No.4608/2014:

Neeraj Kumar, age 32 years
S/o Sh. Raj Kumar
R/o B-247, Gali No.10
18 Foota Road
Meet Nagar
Delhi – 110 094. ... Applicant

(By Advocate:Sh. Sachin Kumar Jain)

Versus

1. Delhi Subordinate Service Selection Board
   Through its Secretary
   FC-18, Institutional Area
   Karkardooma
   Delhi – 110 092.

2. Govt. of NCT Delhi
   Directorate of Education
   Old Pattachor Building, Lucknow Road,
   Timar Pur, Delhi-110 054. .. Respondents

(By Advocate: Shri K.M.Singh)

O.A.No.4611/2014:

Nidhi, age 25 years
D/o Sh. Kanwar Singh
R/o Village and Post Khanda
Tehsil Kharkhoda, District Sonepat
Haryana. ... Applicant

(By Advocate:Sh. Sachin Kumar Jain)

Versus

1. Delhi Subordinate Service Selection Board
   Through its Secretary
   FC-18, Institutional Area
   Karkardooma
   Delhi – 110 092.

2. Govt. of NCT Delhi
   Directorate of Education
   Old Pattachor Building, Lucknow Road,
   Timar Pur, Delhi-110 054. .. Respondents

(By Advocate: Shri K.M.Singh)

O.A.No.4612/2014:

Mohd. Aqub, age 25 years
S/o Mohd. Iqbal
House No.1102
Street No.39/3, Jafrabad
Delhi – 110 053. ... Applicant

(By Advocate:Sh. Sachin Kumar Jain)

Versus

1. Delhi Subordinate Service Selection Board
   Through its Secretary
   FC-18, Institutional Area
   Karkardooma
   Delhi – 110 092.

2. Govt. of NCT Delhi
   Directorate of Education
   Old Pattachor Building, Lucknow Road,
   Timar Pur, Delhi-110 054. .. Respondents

(By Advocate: Shri K.M.Singh)

O.A.No.4613/2014:

Satish Chandra Ojha, age 27 years
S/o Brijesh Chand Ojha
R/o Village & Post Atheha
Thana Udaypur
District Pratapgarh, U.P. ... Applicant

(By Advocate: Sh. Sachin Kumar Jain)

Versus

1. Delhi Subordinate Service Selection Board
   Through its Secretary
   FC-18, Institutional Area
   Karkardooma
   Delhi – 110 092.

2. Govt. of NCT Delhi
   Directorate of Education
   Old Pattachor Building, Lucknow Road,
   Timar Pur, Delhi-110 054. .. Respondents

(By Advocate: Shri K.M.Singh)

O.A.No.4615/2014:

Nirmal Kumar Jain, age 32 years
S/o Suraj Mal Jain
R/o Village and Post Diggi
Tehsil Malpura
District Tonk
Rajasthan. ... Applicant

(By Advocate:Sh. Sachin Kumar Jain)

Versus

1. Delhi Subordinate Service Selection Board
   Through its Secretary
   FC-18, Institutional Area
   Karkardooma
   Delhi – 110 092.

2. Govt. of NCT Delhi
   Directorate of Education
   Old Pattachor Building, Lucknow Road,
   Timar Pur, Delhi-110 054. .. Respondents

(By Advocate: Shri K.M.Singh)

O.A.No.4587/2014:

Ranveer Singh, age 38
S/o Dharam Singh
R/o A-8/686, East Gokal Pur
Amar Colony, Delhi – 110 094. ... Applicant

(By Advocate:Sh. Sachin Kumar Jain)

Versus

1. Delhi Subordinate Service Selection Board
   Through its Secretary
   FC-18, Institutional Area
   Karkardooma
   Delhi – 110 092.

2. Govt. of NCT Delhi
   Directorate of Education
   Old Pattachor Building, Lucknow Road,
   Timar Pur, Delhi-110 054. .. Respondents

(By Advocate: Ms. Ritika Chawla)

O R D E R

By V. Ajay Kumar, Member (J):

Heard both sides.

2. Since the facts and issues involved in all these OAs are common, they are being disposed of by way of this common order.

3. The applicants, whose candidature was rejected by the Respondent-DSSSB, Govt. of NCT of Delhi, for selection to various posts, advertised vide Advertisement No.01/2013, filed the aforesaid OAs questioning the said rejection.

4. Relevant individual particulars of the applicants are as under:

O.A.No. And name of the applicant	Advertisement No.	Post Code No.	Name of the post	Reasons for rejection
4445/2014 (Neha Nagar)	01/13	05/13	TGT (English) - Female	Not having the requisite qualifications as on closing date.
4591/2014 (S.K.Singh)	01/13	08/13	TGT (Maths) – Male	Not having the requisite qualifications as on closing date.
4592/2014 (Munesh Pal)	01/13	06/13	TGT (Hindi) – Male	Not having the requisite qualifications as on closing date.
4593/2014 (Madhu Bala)	01/13	15/13	TGT (Sanskrit) – Female	Not having the requisite qualifications as on closing date.
4595/2014 (Preeti Dilbag)	01/13	15/13	TGT (Sanskrit) – Female	Not having the requisite qualifications as on closing date.
4596/2014 (Sushila Kumari)	01/13	05/13	TGT (English) – Female	Not having the requisite qualifications as on closing

				date.
4597/2014 (Gaurav Kumar Sharma)	01/13	06/13	TGT (Hindi) – Male	Not having the requisite qualifications as on closing date.
4598/2014 (Mohd. Azhar)	01/13	18/13	TGT (Urdu) – Male	Not having the requisite qualifications as on closing date.
4599/2014 (Mahesh Kumar)	01/13	10/13	TGT (Natural Science) – Male	Not having the requisite qualifications as on closing date.
4600/2014 (Reeta)	01/13	07/13	TGT (Hindi) – Female	Not having the requisite qualifications as on closing date.
4604/2014 (Sandeep Tomer)	01/13	08/13	TGT (Maths) – Male	Not having the requisite qualifications as on closing date.
4607/2014 (Pankaj Kumar Deshwal)	01/13	10/13	TGT (Natural Science) – Male	Not having the requisite qualifications as on closing date.
4608/2014 (Neeraj Kumar)	01/13	06/13	TGT (Hindi) – Male	Not having the requisite qualifications as on closing date.
4611/2014 (Nidhi)	01/13	15/13	TGT (Sanskrit) – Female	Not having the requisite qualifications as on closing date.
4612/2014 (Mohd. Yaqub)	01/13	06/13	TGT (Hindi) – Male	Not having the requisite qualifications as on closing date.
4613/2014 (Satish Chandra	01/13	06/13	TGT (Hindi) – Male	Not having the requisite qualifications

Ojha)				as on closing date.
4615/2014 (Nirmal Kumar Jain)	01/13	06/13	TGT (Hindi) – Male	Not having the requisite qualifications as on closing date.
4587/2014 (Ranveer Singh)	01/13	06/13	TGT (Hindi) – Male	Not having the requisite qualifications as on closing date.

5. It is submitted on behalf of the applicants that all of them are possessing all the essential qualifications, as required under the Advertisement No.1/2013 and hence, the rejection of their candidature is illegal.

6. This Tribunal, while issuing notices in the OAs, directed the respondents to permit the applicants to participate in the selection process, provisionally, however, directed not to declare their results until further orders. Consequently, all the applicants were allowed to participate in the process of selection.

7. It is the stand of the respondents in all the OAs that the verification of the certificates pertaining to the essential qualifications would be done at the time of appointment only, i.e., after the applicants successfully cleared the examination. The respondents are using the OMR Technology in respect of the applications for the examination. The candidates are required to bubble the relevant Columns correctly as per the instructions issued vide the Advertisement. If the candidates fail to bubble the required slots

indicating their essential qualifications and other details, the OMR Technology rejects the candidature.

8. All the applicants either along with the Original Applications or with their rejoinders filed the copies of the Certificates in proof of their possessing the essential qualifications as required under the said Advertisement.

9. The respondents on their part, produced the copies of the respective OMR sheets of all the applicants to show that the applicants failed to bubble the required slots in the OMR Sheet.

10. Heard the learned counsel for both sides and carefully perused the copies of the OMR sheets of the applicants and also the copies of the certificates filed by the applicants. It reveals that though the applicants are possessing the essential qualifications as required under the Advertisement, as on the closing date of receipt of the applications, but in view of either not bubbling the relevant Columns or in misunderstanding the instructions of the advertisement, the respondents rejected their candidature.

11. It is well settled that applications or candidatures or selections normally shall not be rejected by the authorities, basing on the minor mistakes committed by the youngsters in filling up the application forms or in the competitive examinations, if otherwise, they establish their identity and that they are qualified and eligible for consideration

of their cases by furnishing the documents in proof of the same. In this regard, some of the decisions are mentioned below:

a) **Commissioner of Police & Others** v. **Sandeep Kumar,** (2011) 4 SCC 644.

b) Delhi Subordinate Services Selection Board and Anr. V. Neeraj Kumar and Anr. in WP(C) 1004/2012 and CM 2212/2012 dated 24.02.2012 of the Hon'ble High Court of Delhi.

c) Rohit Kumar v. Union of India & Anr. in CWP No.13730/2012 dated 27.07.2012 of the Hon'ble High Court of Punjab and Haryana at Chandigarh.

d) Anil Kumar v. State of Rajasthan & Ors., S.B.Civil Writ Petition No.657/2012 dated 02.01.2013 of the Hon'ble High Court of Judicature for Rajasthan at Jodhpur.

e) OA No.2063/2012 [Ravindra Malik v. Staff Selection Commission & Others] decided on 13.02.2013 of the Principal Bench of the CAT.

f) OA No.1802/2012 [Arvind Kumar Kajla v. UOI & Others] decided on 30.10.2013 of the Principal Bench of the CAT.

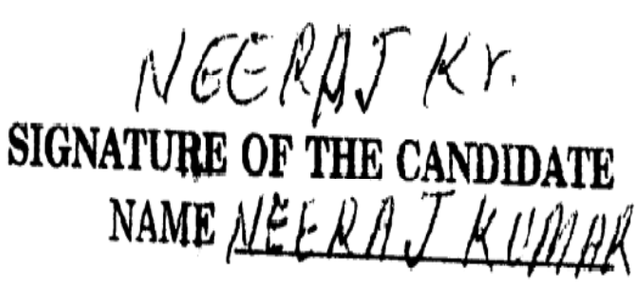
g) Subhanta Devi v. State of Rajasthan, S.B. Civil Writ Petition No.11269/2011, dated 13.05.2014 of the Hon'ble High Court of Judicature for Rajasthan Bench at Jaipur.

h) OA No.1966/2013 [Ms. Deepika & Anr. v. Govt. of NCT of Delhi & Others] and batch, decided on 02.07.2014 of the Principal Bench of the CAT.

12. In **Sandeep Kumar's** case (supra), the respondent therein, in response to the advertisement issued in January 1999 for filling up of certain posts of Head Constables (Ministerial), applied on 24.02.1999 but did not mention in his application form that he was involved in a criminal case. The respondent qualified in all the tests for selection to the post of temporary Head Constable (Ministerial). On 03.04.2001 he filled the attestation form wherein for the first time he disclosed that he had been involved in a criminal case with his tenant which, later on, had been compromised in 1998 and he had been acquitted. After issuing a show cause notice and after considering the representation of the respondent, his candidature was cancelled. The Apex Court while observing that "the modern approach should be to reform a person instead of branding him as a criminal all his life" and that "Youth often commits indiscretions, which are often condoned" and that "the offence was not a serious offence like murder, decoity or rape and hence, a more lenient view should be taken", dismissed the appeal of the department.

13. In **Neeraj Kumar** (supra), the respondent had applied for the post of Teacher (Primary) in the Municipal Corporation of Delhi pursuant to advertisement by the DSSSB. Clause 8 of the advertisement prescribed the conditions for invalid applications. One of the clauses, mentioned in the relevant advertisement, for treating the application as invalid was that "*Signature in block capital letters in English or in different languages and in different style/mode*". Although the respondent got more marks than the last selected

person, he was not selected on the ground that he had signed the application in capital letters in English. The Hon'ble High Court, while upholding the view taken by the Tribunal in OA No.3095/2010 (which was filed by the respondent herein) held that although the stipulation with regard to the invalidity of an application on the ground that the applicant's signature was in block capital letters in English is merely directory and not mandatory: The relevant paragraphs of the said Judgement read as under:

> ñ9. Furthermore, in order to ascertain as to whether there was any violation of the conditions stipulated in the advertisement with regard to signing in English in block capital letters, we directed the learned counsel for the petitioner on the previous occasion to place before us a copy of the very application form, submitted by the respondent. That copy is available with us and we find that the respondent has not signed in block capital letters in English as whole of his signature is not in capital letters. This is apparent from the fact that below the space provided for signature of the candidate, there is space indicated for giving name of the candidate: Whereas the name has been written entirely in block capital letters in English in the form ñNEERAJ KUMARò, the signature of the candidate, above it, is in the following form ñNEERAJ Kr.ò It so happens that this is the way in which the respondent signs normally and in order to make this clearer, an image of the signature and name, as given in the application form is reproduced hereinbelow:-
>
> 
>
>
> 10. It is absolutely clear that the signature of the candidate is different from the manner in which his name has been written which is entirely in block capital

> letters in English. Therefore, in our view, it cannot be said that the respondent has signed the application in block capital letters in English.
>
> 11. Even otherwise, we are of the opinion that since the identity of the candidate could
> be established from his photograph on the application form as well as the photograph affixed on the roll number issued to him by the petitioners, the stipulation with regard to the invalidity of an application on the ground that the applicant's signature is in block capital letters in English is merely directory and not mandatory. The decisions cited by the learned counsel for the petitioner are clearly distinguishable.
>
> In view of the foregoing although we have taken slightly different view as regards the first issue from that of the Tribunal, we see no reason to interfere with the ultimate conclusion of the Tribunal. Accordingly, the writ petition is disposed of."

14. In **Rohit Kumar** (supra), the petitioner, while taking the examination, has wrongly darkened his roll number in the OMR sheet whereas in letters he has rightly mentioned the roll number as 160150291 because of which he was awarded zero marks. The Hon'ble High Court of Punjab and Haryana at Chandigarh, observed as under:

> "It is admitted position on record that while filling in OMR (Optical Mark Recognition) sheet petitioner had wrongly darkened the roll number although in letters he had rightly filled his roll number. When seen from other angle petitioner has secured 75.25% marks, this shows that the candidate appears to be quite meritorious and, therefore, for such mistake his career should not be jeoparadise. It is stated that main written examination for the post for which the petitioner had applied i.e. Sub Inspector in the Central Armed Police Forces and Assistant Sub Inspector in Central Industrial Security Force is fixed for 29.07.2012, therefore, direction is issued to the respondents to accept the candidature of the petitioner and permit him to participate in the main written examination. It would not be out of way to mention here that the preliminary written test which was held by the respondents was for the short listing of the candidates and clearing of the same would not confer any benefit upon the petitioner in the final selection which would now initiate as the main written examination to be conducted by the respondents on 29.07.2012.
>
> Petition stands disposed of in the above terms."

15. In **Anil Kumar** (supra), the petitioner therein, in pursuance of the advertisement dated 14.10.2010 for filling up of the post of Constable in various disciplines in several districts of the State of Rajasthan, applied to face the process of selection. In the final selection, his roll number was not shown in the successful candidates list, he submitted number of representations and ultimately he was informed that `0' (zero) marks were given in the written test as he did not mention his gender in the O.M.R. Sheet. Being aggrieved, he filed the writ before the Hon'ble High Court. It was held as under:

> "In the case on hand, as already stated earlier, the respondents were having all necessary details pertaining to gender of the petitioner and the category for which he applied, as such, there was no need to reject his candidature. The appropriate course available was to permit him to rectify the error.
>
> In view of the discussion made above, the minor error committed by the petitioner while filling in O.M.R. sheet deserves condonation and the answer-sheet of the petitioner deserves to be evaluated on merits. Accordingly, this petition for writ is allowed. The respondents are directed to permit the petitioner to rectify the error in O.M.R. sheet and further to examine the same on merits. If the petitioner secures marks above the cut-off-marks, then his candidature be considered for recruitment to the post of Constable in district Jaipur (Rural). No order as to costs."

(Emphasis supplied)

16. In **Ravindra Malik** (supra), the applicant therein while coding the particulars on the OMR Answer Sheet, coded the Ticket/Seat No. as 2201023 instead of the right Ticket No. of 2109123, therefore, on applying the condition at Para 9(B) of the Notice dated 19.03.2011, the answer sheet was not evaluated and zero marks have been awarded to the applicant. Being aggrieved, he filed the said OA. The

Tribunal, relying the decision of the Hon'ble Supreme Court in **Sandeep Kumar** (supra), observed as under:

> "26. The applicant himself committed a mistake by not coding his Ticket number correctly on his OMR Answer Sheet cannot throw blame on the Invigilator by stating that it is for the Invigilator to verify whether all the particulars have been filled properly or not before affixing his signature on the OMR Answer Sheet.
>
> 27. However, as the applicant's OMR Answer Sheet for Paper-1 of Tier-II examination has already been evaluated by the OMR machine, and awarded 129 marks to him for the said paper, and as per the marks announced by the respondents vide Annexure A5 and Annexure A6, the applicant is eligible to be placed in the merit list for the post of Inspector (Central Excise) against the vacancy of Inspector (Central Excise) which was directed to be kept vacant by this Tribunal and as held by the Hon'ble High Court of Delhi in Neeraj Kumar's case (supra), that the instructions regarding filling up of the OMR Answer Sheets, in the absence of allegations of any mal-practices, are merely directory and not mandatory and in view of the observations of the Hon'ble Apex Court in **Sandeep Kumar's case (supra)** that the approach should be to condone minor indiscretions made by young people, we are of the considered opinion that the OA deserves to be allowed.
>
> 28. In the peculiar facts and circumstances of this case and for the aforesaid reasons, the OA is allowed and the respondents are directed to consider the case of the applicant for appointment to the post of Inspector (Central Excise) or to any other post, as per his merit, after taking into the marks awarded to the applicant for Paper-1 of Tier-II examination as per Annexure A5 coupled with the marks awarded to him under Annexure A6, if otherwise eligible, within a period of 60 days from the date of receipt of a copy of this order.
>
> 29. However, it is made clear that the applicant will get all his benefits such as salary, seniority, etc. prospectively, i.e., from the date of appointment only.
>
> 30. In the circumstances, there shall be no order as to costs."

17. In **Arvind Kumar Kajla** (supra), the applicant therein, although had entered his roll number correctly at two places, forgot to code it and for this trivial error, the respondents gave him `zero' marks in the relevant paper, thus, disqualified him. The Tribunal observed as under:

"10. The only reason for non-consideration of the applicant for the post of IO seems to be that he failed to enter the coding for his roll number though he did enter the roll number correctly. In fact, from Annexure R-4, it is clear that he had coded the ticket number but somehow missed coding the roll number. Therefore, it is for consideration whether he deserves any relief in view of the fact that this was a trivial error committed by him at the time of taking the exam. It is a fact that while taking the exams, slight errors can happen as the examinees are under lot of stress at that point of time. There has been no intention of the applicant to hide any facts or give any misleading facts. He had also indicated his roll number and ticket number correctly. Perhaps, while inspecting his answer sheet, the invigilator should have been more careful and had it been so, the mistake could have been rectified then and there. As has been noted above, according to his calculation, based on correct answer sheets the applicant would be able to obtain the total of 286 marks i.e. well above the minimum cut off marks. It is not fair that job opportunity to a young person should be denied due to just a trivial mistake committed by him at the time of the examination when the candidates are under different levels of stress.

11. We have also gone through various orders/ judgments cited by the applicant and the respondents and there are clearly two views taken in these matters. Moreover, the facts in each case are not also exactly similar. In Commissioner of Police and others Vs. Sandeep Kumar, (2011) 4 SCC 644, the Honble Supreme Court held as follows:

> "....When the incident happened the respondent must have been about 20 years of age. At that age young people often commit indiscretions, and such indiscretions can often be condoned. After all, youth will be youth. They are not expected to behave in as mature a manner as older people. Hence our approach should be to condone minor indiscretions made by young people rather than to brand them as criminals for the rest of their lives."

When the Apex Court has even overlooked indiscretions made by youth perhaps a lenient view needs to be taken in the present case, where no indiscretion has been committed, but just a minor mistake of not coding the roll number. A little alertness on the part of the invigilator would have helped avert the situation. We, therefore, feel that there is merit in the OA and the candidature of the applicant needs to be considered.

12. We, therefore, direct the respondents to evaluate Part II of answer sheet of the applicant, accord marks and declare it. If the applicant scores above the cut off marks, he should be invited for PET/ Medical Test/ Interview and if he qualifies in them, appointed as IO in NCB. This exercise should be completed within a period of two months from the receipt of a copy of this order."

18. In **Subhanta Devi** (supra), the petitioner therein, filed the writ petition to evaluate the answer sheet/OMR Sheets and declare the result accordingly and consider their candidature for being appointed on the post of Constable (General), if otherwise found suitable. The grievance of the petitioner was that though he attempted all the answers in the answersheets/OMR sheets but due to minor mistake on his part, his OMR sheet had not been evaluated and therefore, the case of the petitioner has not been considered for appointment. The Hon'ble High Court held that minor omissions should not come in the way of evaluation of OMR sheets of the candidates. Accordingly, the writ petition was disposed of.

19. In **Ms. Deepika** (supra) and batch, when the batch of OAs came up for consideration of the three categories of candidates, namely, (i) where the applicants did not fill up Col.12(d) of the OMR sheet pertaining to the qualification properly; (ii) where the applicants either fill up the Column 16 wrongly relating to the question whether they were debarred in any earlier examination by DSSSB or did not fill up at all, and (iii) where the Post Code itself was not filled up, this Tribunal, after relying on the Judgement of the Hon'ble Supreme Court in **Union Public Service Commission** v. **Gyan Prkash Srivastava** (2012) 1 SCC 537; the Judgement of the Hon'ble High Court of Delhi in **Neeraj Kumar** (supra), and the decision of this Tribunal in OA No.136/2014 [**Mr. Vikram Bainsla** v. **Commissioner of Police & Anr.**], observed as under:

"18. We have considered the deficiencies in the OMR application forms filled up by the applicants in this case. We find that there was a scope for ambiguity with regard to the filling up of col. 12 (d), (e) & (f). While the instructions as reproduced earlier did say that the applicants were required to fill up all the columns, it is obvious that this instruction cannot be applied to all the columns as some columns had to be answered in terms of `yes' or `no'. Obviously both columns cannot be filled up under any circumstances. Secondly, the applicants could genuinely believe that having marked the column of registration with Nursing Council would automatically mean that they had fulfilled all the conditions required for such registration, namely, matriculation or equivalent certificate and a diploma in Nursing/Midwifery. We also note that in some examinations such as Delhi Higher Judicial Service Examination, sample registration form of which was produced by the learned counsel for the applicants, Sh. R.K.Jain, the instructions clearly show as to how to fill up a column like 12(d), (e) & (f) in the present case. Further relying on Gyan Prakashs case (supra), we are of the view that the OMR applications of the applicants in OAs 1966/2013, 1968/2013, 1990/2013 & 1998/2013 should have been accepted by the respondent no.2.

19. In the second category, col. 16 had not been filled up at all or filled up wrongly. Col. 16 is reproduced below:

"Whether debarred in any earlier Examination by DSSSB? (see list in website)

Yes O
No O"

20. The two applicants in OA-1986/2013 did not fill up this column altogether and the applicants in OA-1987/2013 answered `yes' in this column. This is a very important information which the respondents would like to have from the applicants and applicants also are required to be careful while filling up this column. However, it is stated in the form that `see list in website' which means that if the name of the candidate is included in that list which apparently is of debarred candidates, he is debarred, otherwise not. In other words, the respondents do not envisage a situation where a candidates name may not be in the list in website but he might have been debarred. In such a situation it is only a question of reference to the list in website and nothing more. Therefore, by not filling up this column or wrongly filling up this column does not alter the factual position in respect of debarment of a candidate. If a candidate has not filled up this column, the respondent no.2 would still check whether his name appears in the list of

debarred candidates and if his answer is `no' in this column even then they will check the list. Here the two applicants have wrongly marked `yes' in col. 16. No candidate would deliberately claim himself as having been debarred when that is not a fact. If the list in website is the master list, a mistake in filling up this form in either of the above two cases does not change the factual position and cannot be treated as an attempt to mislead or conceal the information. We are, therefore, of the view that this mistake cannot be the sole ground for rejection of the candidature of these applicants.

21. In the third category, there is only one candidate in OA-1989/2013 who did not fill up the Post Code. This is a serious mistake because the OMR application cannot be processed at all in the absence of the Post Code. In such a case the application is ought to have been rejected. However, in this case we would refer to an order dated 13.02.2013 of Coordinate Bench of this Tribunal in OA-2063/2012. In that case, the applicant had been awarded zero marks in Tier-I of two examinations as the applicant had mentioned a wrong code on the OMR answer sheet. According to the instructions published in the notice of the examination, the answer sheet not bearing candidates Roll no., ticket no. and signatures fully and correctly, zero marks will be awarded to them. However, it was noticed that the respondents in that case had evaluated the OMR answer sheet of the applicant and awarded 129 marks despite the fact that the answer sheet carried a wrong ticket number. Thus, the respondents were not handicapped in tracing and connecting the answer sheet of the applicant correctly to the applicant in that case. It was held that "In the peculiar facts and circumstances of this case and for the aforesaid reasons, the OA is allowed and the respondents are directed to consider the case of the applicant for appointment to the post of Inspector (Central Excise) or to any other post, as per his merit, after taking into the marks awarded to the applicant for Paper-I of Tier-II examination as per Annexure A-5 coupled with the marks awarded to him under Annexure A6, if otherwise eligible, within a period of 60 days from the date of receipt of a copy of this order."

22. In the present case also, we find that though the applicant had not filled up Post Code, the applicant had correctly filled up the educational qualification in the col.12 (d) pertaining to `Staff Nurse, Health and Family Welfare'. Once the post had been identified, there can be no ambiguity with regard to the Post Code, and therefore, we are of the view that respondents were not right in rejecting the application on this ground alone.

> 23. The cases of the applicants in these OAs need to be considered by the respondents in the light of our observations above. We, accordingly, quash the notice dated 03.05.2013 issued by respondent no.2 in respect of applicants in the present OAs and direct them to consider the candidature of the applicants for the post for which they have applied and further process their cases in accordance with the rules with regard to the selection and appointment within a period of two months. OAs are allowed. No costs."

20. In view of the above legal position and in view of the fact that the applicants were already permitted to take the examination provisionally by virtue of the interim orders dated 23.12.2014 and their results are yet to be declared by the respondents, we are of the considered view that the ends of justice would be met if the respondents are directed to declare the results of the applicants and to consider their cases along with others as per his/her merit, after verifying their qualifications or otherwise satisfying themselves with their suitability, in accordance with law, within four weeks from the date of receipt of a copy of this order. The OAs are disposed of, accordingly. No costs.

Issue by DASTI.

(Dr. B.K. Sinha)
Member (A)

(V. Ajay Kumar)
Member (J)

/nsnrvak/