

**Central Administrative Tribunal  
Principal Bench, New Delhi**

OA No. 1499/2016

This the 30<sup>th</sup> day of November, 2018

**Hon'ble Mr. K.N. Shrivastava, Member (A)**  
**Hon'ble Mr. S.N. Terdal, Member (J)**

Manoj Kumar Bedwal (TGT)  
Aged about 28 years  
S/o Sh. Mool Chand Bairwa  
R/o Village & PO Amorgarh  
Distt. Karawali, Rajasthan

....Applicant

(By Advocate :Mr. S.N. Sharma)

Versus

DSSSB Through

1. Chairman  
DSSSB  
FC-18, Institutional Area  
Karkardooma, Delhi.
2. Govt. of National Capital Territory of Delhi (GNCTD)  
Through its Secretary/Secretary  
I.P. Estate  
GNCTD, New Delhi.

...Respondents

(By Advocate : Mr. Amit Yadav for Mr. Amit Sharma)

**ORDER (ORAL)**

**Mr. K.N. Shrivastava :**

Pursuant to Annexure A-2 Advertisement No. 001/2010 of Delhi Subordinate Services Selection Board (DSSSB), the applicant applied for the post of TGT - Natural Science (Male) Post Code 7/10 under SC category. The written examination was held on 19.04.2010. The applicant secured 164 marks out of 200. The last selected candidate under the SC category had

secured 119 marks. The applicant was denied the appointment to the post on the ground that he was SC outsider as is evident from the merit list placed at Annexure A-1 (colly.) (p. 10).

2. The applicant, through the medium of this OA, has challenged the rejection of his candidature by the respondents.

3. Mr. S.N. Sharma, learned counsel for the applicant, relying on the judgment of this Tribunal in OA No. 1309/2011 dated 30.10.2010 (**Subhash Chandra vs. GNCT of Delhi & ors.**) and in OA No. 423/2013 dated 28.07.2014 (**Tejwati Mahawar vs. Delhi Subordinate Services Selection Board & Anr.**), stated that the geographical restriction does not apply to the SC/ST candidates. He said that insider/outsider category is relevant only in respect of reservation for OBC category.

4. Mr. Sharma, thus, argued that the action of the respondents in denying appointment to the applicant on the ground that he was SC outsider, was absolutely illegal. He accordingly, prayed for a direction to the respondents to appoint the applicant against the post of TGT - Natural Science (Male) under SC category.

5. *Per contra*, Mr. Amit Yadav, appearing as proxy for Mr. Amit Sharma, learned counsel for respondents, argued that the merit list Annexure A-1 (colly.) was published by the respondents way back in the year 2011 and that the applicant had remained dormant for almost five years and, much belatedly, he filed the instant OA on 26.04.2016 with an application for condonation of

delay. He said that the applicant had been so negligent and lackadaisical and that even he had not explained the number of days delay in the condonation application, let alone substantiating the delay in approaching the Tribunal.

6. The next argument of Mr. Amit Yadav was that if the relief prayed for was granted, one of the selected candidates would have to be displaced, who was not a party to the litigation. As such, even on the ground of non-joinder of necessary parties, the OA was liable for rejection.

7. The next limb of argument of Mr. Yadav was that at the time of rejection of candidature of the applicant, the judgment of Hon'ble Apex Court **in Subhash Chandra & another v. DSSSB & others** (Appeal (C) No. 5092/2009) was holding the field and as such, the decision of the respondents in rejecting the candidature of the applicant could not be faulted upon. Mr. Amit Yadav also placed reliance on the judgment of this Tribunal in **Vimla Nawaria vs. Union of India & Ors.** (OA No. 2630/2012) dated 02.08.2008 and submitted that the issue of non-joinder of necessary party had been highlighted even in that judgment and identical relief prayed for had been denied.

8. Replying to the arguments of Mr. Amit Yadav, Mr. S.N. Sharma, learned counsel for applicant submitted that the Tribunal had passed an interim order on 29.04.2016 itself, wherein it had been stipulated that the appointment of the last candidate in the SC category would be subject to the outcome of the OA. He, thus, argued that the issue of non-joinder of last

selected candidate as party respondent had become a non-issue. He further submitted that the respondents had never sought vacation of this interim order.

9. We have considered the arguments of learned counsel for parties and have also perused the pleadings.

10. As per the law laid down by Hon'ble Apex Court, the territorial restrictions do not apply to the SC/ST candidates in the matter of availing reservation benefits. In other words, for availing the reservation benefits, the country becomes one single unit for the SC/ST candidates. Hence, we are of the view that the applicant was entitled for appointment as TGT (Natural Science) under SC category by virtue of his higher merit position.

11. The argument of Mr. Amit Yadav, learned counsel for the respondents in regard to non-joinder of the necessary party gets repelled in view of the interim order of the Tribunal dated 29.04.2016, referred to hereinabove.

12. In the conspectus, we allow this OA in the following terms:

- a. Respondent No. 1 is directed to recommend the name of the applicant to Director of Education, GNCTD for appointment as TGT – Natural Science (Male) Post Code 7/10 under SC category within a period of four weeks from the date of receipt of a copy of this order.***

- b. Director of Education, GNCTD, is directed to issue letter of appointment to the applicant within four weeks of receipt of the recommendation from respondent no. 1.***
- c. In case the respondents do not wish to displace the last selected male candidate under the SC category for accommodating the applicant, they shall have liberty to create a supernumerary post to accommodate the applicant for the time being, till a regular vacancy arises in the post of TGT (Natural Science) (Male).***

**(S.N. Terdal)  
Member (J)**

**(K.N. Shrivastava)  
Member (A)**

*/anjali/*