

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No.3189 of 2015

Orders reserved on : 20.11.2018

Orders pronounced on : 28.11.2018

Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)

Anjali Phogat (Aged 22)
D/o Sh. Somvir Singh
RZ-74A, Y-Block, New Roshan Pura,
Najafgarh, New Delhi-43.

....Applicant

(None present)

VERSUS

Govt. of NCT of Delhi, through :

1. The Chief Secretary,
Govt. of NCT of Delhi
New Secretariat, IP Estate,
New Delhi.
2. Director of Education,
Delhi Secretariat,
I.P. Estate, GNCTD, New Delhi.
3. The Secretary,
Delhi Subordinate Services Selection Board,
3rd Floor, UTCS Building,
Vishwas Nagar, Shahdara,
New Delhi.

....Respondents

(By Advocate : Shri Amit Anand)

O R D E R

Ms. Nita Chowdhury, Member (A):

When this matter was taken up for consideration on 20.11.2018, no one chose to appear on behalf of the applicant as neither the applicant nor her counsel appeared. We also

find that on previous date of hearing also there was no appearance on behalf of the applicant and this matter was heard in part and this case was directed to be listed for hearing on 20.11.2018 with further observation that no further opportunity shall be granted to the applicant. In view of the above position, this Court proceed to adjudicate this case by invoking the provisions of Rule 15 of CAT (Procedure) Rules, 1987 and accordingly, we heard further Shri Amit Anand, learned counsel for the respondents.

2. This OA has been filed by the applicant for seeking the following reliefs:-

- “i) declare the applicant as selected candidate for the post of Assistant Teacher (Primary) in Directorate of Education, GNCTD and direct the respondents to appoint the applicant on the post of Assistant Teacher (Primary) in Directorate of Education, GNCTD Post Code 101/12 in pursuance of advertisement no.2/2012 with all consequential benefits.
- ii) allow the OA with exemplary costs.
- iii) pass any other orders as this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the case.”

3. Grievance of the applicant in this case is with regard to change of her category from General to OBC, for which she had already represented to the respondents but the same has not been decided till date and her further grievance is of her non-selection to the post of Assistant Teacher (Primary)

despite of her securing more marks than the last selected candidate in OBC category.

3.1 Applicant herself stated in the OA that at the time of filing up of the application form for the post in question, she was not possessing OBC certificate and, therefore, she filled up the application form for the said post as a General category candidate. Applicant further stated that she has applied for OBC certificate during the pendency of the examination of the said post and got the same on 12.7.2014 well before declaration of revised result.

4. Applicant has placed reliance on the judgment of the Hon'ble Delhi High Court in the case of Writ Petition (C) No.12870/2009 (***DSSB and another vs. Ms. Anu Devi and another***) and other connected petitions decided on 17.2.2010 (Annexure A-7)

5. Counsel for the respondents also submitted that applicant of this case applied for the post in question in UR category and she had also appeared in the examination as UR candidate and scored 132.25 marks which are below the cut off marks in UR category. Hence, she was not considered for the said post. Later on applicant applied for OBC category certificate and obtained OBC certificate dated **12.7.2014** after cut off date, i.e., **15.6.2012**. Counsel further submitted that as per the terms and conditions of the advertisement, the

entire certificate should be issued before cut off date, i.e., 15.6.2012.

5.1 Counsel for the respondents further submitted that the aforesaid judgment of the Delhi High Court is not applicable to the facts of this case as in this case applicant has applied for the post in question as UR candidate and in the said case decided by the Hon'ble Delhi High Court, all the candidates had applied as OBC category candidates.

6. From the admission of the applicant, it is clear that applicant had applied for the post in question as General category candidate and subsequently applied for OBC category certificate and the said certificate was issued to her on 12.7.2014, much after the cut off date, i.e., 15.6.2012, although the final result was declared in 2015. Even though the applicant might have submitted her representation for change of her category during the finalization of selection of the said post, but that cannot be claimed as a matter of right, as in the facts as enumerated in the OA, the candidature of the applicant was considered at all times in the selection process as UR candidate as she has herself applied under UR category and thereby herself waived off her right to claim OBC category benefits.

7. The decision of the Hon'ble Delhi High Court in the case of Writ Petition (C) No.12870/2009 (***DSSB and another vs. Ms. Anu Devi and another***) and other connected petitions

decided on 17.2.2010 relied upon by the applicant is also not relevant to the facts of this case as in the said case the Hon'ble High Court observed that "in all cases except in the case of Rekhawati (supra) the candidates had applied for OBC certificate before the closing date for submission of forms which was 29th October, 2007." But in the present case as per the admission of the applicant, she has not only applied as UR candidate but also applied for OBC certificate after submission of her application form for the said post. As such the said decision of the Hon'ble Delhi High Court is distinguishable on facts.

8. In view of the above facts and circumstances, and for the forgoing reasons, the instant OA bereft of merit is liable to be dismissed. Accordingly the present OA is dismissed. There shall be no order as to costs.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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