

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

T.A. No.73 of 2013

Orders reserved on : 07.08.2018

Orders pronounced on : 16.08.2018

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

Shri Mahender Pratap Singh
s/o Sh. Shyam Lal,
R/o C-28/Y-2,
Dilshad Garden,
Delhi-110095.

....Applicant

(By Advocate : Shri Abhinav Tathagat)

VERSUS

1. Govt. of NCT of Delhi,
Chief Secretary,
I.P. Estate, Players Building,
Delhi-110002.
2. Director,
Delhi Fire Services,
DFS HQ, Connaught Place,
New Delhi-110001.
3. Secretary,
U.P.S.C.,
Dholpur House, Shahjahan Road,
Delhi-110069.
4. Abhilash Kumar Malik,
r/o Flat No.F-1, Fire Station Safdarjang,
Jorbagh,
New Delhi-110003.
5. Sanjay Kumar Tomar,
R/o Flat No.A-6, Fire Station,
Connaught Circus,
Delhi-110001.

.....Respondents

(By Advocates : Shri Amit Anand for R-1 and R-2, Shri D.S. Mehandru for R-3, Shri Sudarshan Rajan for R-4 and Shri R.V. Sinha for R-5)

ORDER

Ms. Nita Chowdhury, Member (A):

This case was earlier filed before the Hon'ble Delhi High Court as Writ Petition (Civil) No.4006/2013 and the Hon'ble Delhi High Court, vide its Order dated 21.8.2013, transferred the said Writ Petition before this Tribunal and accordingly, the same was registered as TA No.73/2013 by this Tribunal.

1.1 Later on this TA was heard by this Tribunal and the same was dismissed vide Order dated 15.5.2015, with the following observations:-

“12. In the circumstances and in view of the fact that the affected and necessary parties have not been made as respondents to the TA, and as the TA is liable to be dismissed on the said sole ground of non-joinder of necessary parties, we deem it not necessary to delve upon other contentions of the applicant on merits.

13. In the circumstances and for the aforesaid reasons, the TA is accordingly dismissed. No costs.”

1.2. The applicant had challenged the aforesaid Order of this Tribunal before the Hon'ble Delhi High Court in Writ Petition (Civil) No.7720/2015 and the Delhi High Court vide its Order dated 14.8.2015 remanded back this case to this Tribunal with the following observations:-

“After some hearing in the matter, learned counsel for the petitioner submits that the matter may be remanded back to enable him to make an application to implead the successful candidates as parties.

In view of the submission made, the impugned order dated 15.05.2015 is set aside. The matter is remanded back to the Tribunal. The Tribunal will only hear the matter after the application for impleadment is made.

In view of the above, the present writ petition along with all pending applications are disposed of.”

1.3 Thereafter the applicant moved Misc. Applications bearing MA No.808/2016 for seeking amendment in the OA and MA No.809/2016 for impleadment of Shri Abhilesh Kumar Malik and Shri Sanjay Kumar Tomar as respondent nos.4 and 5 respectively. The MA No.809/2016 was allowed vide Order dated 3.5.2016 by this Tribunal. Thereafter this TA was listed on certain dates and the same was again listed on 7.2.2017, when this Tribunal found that applicant did not appear either on that day, and also on previous two dates dismissed this TA on the ground of default of appearance and for non-prosecution. Thereafter the applicant moved MA 820/2017 seeking restoration of this TA and this Tribunal vide Order dated 13.7.2017 allowed the said MA and restored the present TA subject to payment of costs of Rs.1000/- to the CAT Bar Library, within two weeks, which the applicant paid. This Tribunal vide Order dated 27.10.2017 allowed MA 808/2016 with the following directions:-

“In the light of our above discussions, we allow MA No.808 of 2016. The applicant shall file consolidated TA incorporating the amendments as sought in MA No.808 of 2016 and serve copies thereof on the learned counsel appearing for the

respondent within one month from today. The respondents shall file counter replies, if any, to the amended TA within one month from the date of receipt of copies of the consolidated TA from the application.”

1.4 Pursuant to aforesaid direction, the applicant filed the amended TA and respondents have also filed their reply to the amended TA.

2. By filing the instant TA, the applicant has sought the following reliefs:-

- “a. Issue a writ of mandamus or any other appropriate, writ, order, or direction in the nature of Mandamus commanding the Respondent No.1 to 3 to comply with appropriate rules and regulations in conformity of the reservation policies with regard to the appointment of Divisional Officer (Fire) with the Respondent No.2.
- b. Issue a writ of mandamus or any other appropriate, writ, order, or direction in the nature of Mandamus commanding the Respondent No.1, 2 or 3, whoever is responsible for the advertisement no.02/2013 published in the employment news dated 9-15 February 2013 to withdraw/scrap the same.
- c. Issue a writ of mandamus or any other appropriate, writ, order, or direction in the nature of Mandamus commanding the Respondent No.3 to refrain from holding the scheduled interview for the post of Divisional Officer (Fire) in the Delhi Fire Service, on 24th of June 2013.
- ca. Set aside the appointment of Respondent no.4 & 5 i.e. A.K. Malik and S.K. Tomar may being in violation of reservation policy, recruitment rules, principles of natural justice and Art. 14 and 16 of Indian constitution thus illegal and be declared void *ab initio*.

- cb. Direct that the Applicant be recalled for interview and be considered for appointment to the said post on the same footing as he was in 2013 at the time of advertisement no.02/2016 if not for the biased selection of Respondent No.4 & 5 and be given consequential benefits on selection.
- d. Award costs of the present Petition in favour of the petitioner.
- e. Pass any other order/direction, as this Court may deem fit under the given facts and circumstances, in favour of the Petitioner and against the Respondents.”

3. Brief facts of the case, as stated in the OA, are that vide advertisement No.02/2013 (Annexure P1), the respondent no.3 invited applications for filling up various posts, including the two posts of Divisional Officer (Fire) (in short ‘DO (F)’) under unreserved category in the Delhi Fire Service (in short ‘DFS’).

3.1 The applicant has also applied for the said posts. However, despite being a SC candidate, the applicant has been compelled to fill the application form for the said post under unreserved category.

3.2 It is the contention of the applicant that total sanctioned strength for the cadre of DO (F) in DFS is 9, out of which 7 posts are already occupied by the persons belonging to the unreserved/general category and two posts are lying vacant. The applicant further stated that the respondents have advertise the said two posts under unreserved category leaving zero posts for the persons belonging to reserved

categories which is in gross violation and contravention of reservation rules and policy.

3.3 The further contention of the applicant is that because of such unreasonable and illegal approach of the Delhi Government, not only the candidature of the petitioner but also the candidature of a large number of deserving candidates belonging to SC/ST/reserved categories are being jeopardized and major setback is being caused to their careers.

3.4 Being aggrieved by the aforesaid alleged illegal action of the respondents, the applicant made representation before various Government authorities including the respondents vide letter dated 17.5.2013 (Annexure P2 Colly.), *inter alia*, drawing their attention towards the abovementioned irregularities and sought withdrawal of the said advertisement. However, no action was taken by any of them on the said representation of the applicant.

3.5 Thereafter the applicant received a call letter from the respondent no.3 informing him about his selection for the scheduled interview for the post of DO (F) in DFS, which was scheduled to be held on 24.6.2013 and thus left no choice to the applicant but to approach this Tribunal.

3.6 According to the applicant, one of the two posts of DO (F) ought to have been filled up by way of direct recruitment of an SC candidate as per the roster point.

4. Pursuant to direction of this Tribunal, only respondent nos.4 and 5 have filed their reply separately to the amended OA. Counsel for respondent Nos.1 and 2 submitted that their additional affidavit filed on 30.7.2014 be taken as their reply to the amended OA.

5. In the counter affidavit filed by respondent no.4, he raised the preliminary objection to the effect that the applicant had sought multiple reliefs in the present OA which is not permissible under law as per the provisions of Administrative Tribunals Act, 1985 and CAT (Procedure) Rules, 1987.

5.1 Respondent No.4 further stated that he was appointed on the said post of DO (F) in the year 2013 and the applicant remained silent and did not challenge his appointment to the said post. Thus, admittedly, when the amended TA was filed in February 2016 and as such the period of limitation had already expired for challenging the said advertisement which was published in the year 2013 and secondly, the applicant has also challenged the order dated 24.6.2013 by which the answering respondent was called for interview. Therefore, the present TA being hopelessly barred by limitation is liable to be dismissed.

5.2 It is further stated that answering respondent was appointed to the post of Divisional Officer (Fire) as he was found eligible by the constitutional body, i.e., Union Public Service Commission.

6. In the reply filed by respondent no.5, it is stated that he was appointed to the post in question on 2.9.2013 by the competent authority in accordance with relevant rules and instructions on the subject by following due process of rules and law and there is no illegality or infirmity in appointment of respondent no.5.

6.1 It is further stated that applicant seeks to challenge his appointment to the post in question after a lapse of around 2½ years and as such the present TA is barred by limitation, delay and laches as in terms of Section 21 of the AT Act, 1985, the applicant should have approached this Tribunal within one year of arising of cause of action. Though no cause of action has arisen to the applicant against the answering respondent, however, the cause of action arose on 2.9.2013 and a period of more than 2½ years had elapsed. Therefore, the present case is hopelessly barred by limitation and deserves to be dismissed.

6.2 It is further stated that applicant has not been able to point out any illegality or arbitrariness in the appointment of respondent no.5 in the OA.

6.3 It is also stated that as per RRs for the post of DO (F), 66.66% posts are to be filled by way of promotion through seniority and the remaining 33.33% posts are to be filled up through direct recruitment. Therefore, out of total 09 posts of DO (F), only 03 posts are to be filled through direct recruitment. It is further stated that two SC candidates, namely, Shri Surender Kumar and Shri Santosh Singh have already been appointed to the post of DO (F) under direct recruitment quota. Therefore, while applying the rules of reservation, the official respondents have correctly filled the vacancies of direct recruitment quota through unreserved candidates.

7. Respondent nos.1 and 2 have also filed their additional affidavit in which they have stated that the applicant has annexed all the advertisement w.r.t. the recruitment of Divisional Fire Officer but has inadvertently left one advertisement (Annexure AA1 to the additional affidavit filed by respondent nos.1 and 2), which had been issued for the recruitment of SC/ST posts. Pursuant to which, Sh. Surender Kumar and Shri Santosh Singh were recruited. This advertisement clearly shows that the recruitment had been for SC posts and as per the roster, two persons have been recruited, who belong to SC category. Thus, there is no question that the respondents are not following the roster. In

fact, there is an excess of SC candidate which has to be taken care of in the future selection as per the mandate itself.

7.1 They further stated that as per the roster, no point goes to SC category now was right as out of total three numbers of posts of DO (F) in DFS under direct recruitment, the initial appointment was of Sh. Surinder Kumar, a SC candidate, who was appointed on 3.6.1988 under SC category as per the recommendation of UPSC vide their letter dated 17.7.1987.

7.2 They also stated that as per OM No.36012/2/96-Estt dated 2.7.1997 issued by the DOP&T which provides that *“At the stage of initial operation of a roster, it will be necessary to adjust the existing appointments in the roster. This will also help in identifying the excesses shortages, if any, in the respective categories in the cadre. This may be done starting from the earliest appointment and making an appropriate remark “Utilized by SC/ST/OBC/Gen” as the case may be, against each point in the rosters as explained in the explanatory notes appended to the model rosters.”*

7.3 It is further stated that Shri Surinder Kumar was a SC candidate and was recruited under SC category. Therefore, the point no.7 of SC category in the vacancy based roster dated 02.07.1997, was utilized and hence, vacancy of SC category was filled up on initial operation of the roster. Also prior to the operation of OM dated 2.7.1997, Sh. Santosh Singh, a SC candidate has also been appointed directly on

11.12.1995 under reserved category vacancy as Divisional Officer. The representation of each of the category at no point of time exceeded the reservation prescribed for it. Therefore, it is wrong to say that two persons have been appointed in gross violation of reservation policy and recruitment rules. The recruitment of two persons was made as per the provisions of the aforesaid OM dated 2.7.1997. These two vacancies as per 13 point model roster were for the 6th and 7th replacements after initial recruitment of three vacancies as shown in the annexure which clearly shows that 6th and 7th replacement vacancies were for two unreserved category. Further the appointment of two persons has been made on the recommendations of the UPSC and the respondent nos.1 and 2 do not have any role in the recruitment process. The UPSC is the constitutional body empowered to make recruitments for the post of Divisional Officer in Delhi Fire Service.

7.4 They also stated that there are 9 sanctioned posts of DO (F) in DFS and as per recruitment rules for the above said post, 33.50% posts are to be filled up by direct recruitment and on these three posts, 13 points roster is applied to determine the reserved seats. After initial operation of the 13 point roster as per OM dated 2.7.1997, the point no.7 of SC category in 13 point roster was utilized. These two vacancies were the 3rd and 4th replacement (point no.6 and point no.7 of

13 point roster). As per 13 point model roster, 3rd replacement is for unreserved category and 4th replacement for SC category, which was utilized by Shri Surinder Kumar SC candidate.

8. We have heard learned counsel for the parties and have carefully perused the pleadings available on record. Further, all the parties sought and granted three days' time to file their written submissions.

9. Counsel for the applicant submitted his written arguments in which it is stated that there is clear cut violation of reservation policy as the cadre of DO (F) consists of 3 posts on which 13 point roster is applicable. A copy of the roster being followed by Respondent nos.1 and 2 is marked as Annexure P7 @ page 52 of the amended TA, which clearly shows that Respondent No.1 and 2 have not been following model roster prescribed in compliance with the landmark judgment of the Hon'ble Supreme Court in **R.K. Sabharwal's** case in making the appointment in question.

9.1 Counsel further stated that roster being followed by Respondent nos.1 and 2 is silent about the fact whether the two SC candidates appointed as DO (F) prior to 2.7.1997 were appointed on merits or under reserved category, as per point 5 of the OM 97, appointment of a candidate belonging to reserved category on merits has to be treated as an appointment under unreserved/general category.

9.2 Counsel further stated that the interview of candidates for the abovementioned posts was conducted in June 2013, however, a note appended to the roster being maintained by respondent no.2 dated 17.7.2013 that one post would go to OBC category in the next appointment clearly shows that the Respondent no.2 was aware that it was not following the model roster laid down in OM of 1997 and in spite of the said specific knowledge, the respondent no.4 and 5 were appointed on 2.9.2013 instead of scrapping of the whole exercise of appointment. There has been zero appointment under reserved category including SC after 2.7.1997 till date which is extremely unfair and prejudicial to persons belonging to reserved categories.

9.3 The essential qualification prescribed for appointment on the posts of DO (F) requires candidates to have 7 years of professional experience out of which 5 years must have been in the capacity of Assistant Divisional Officer (Fire) or equivalent in a Fire Organisation. As per the aforesaid advertisement inviting applications for the post in question “the date for determining the eligibility of all candidates in all respect shall be the prescribed closing date for submission of online recruitment application (ORA), i.e., 28.2.2013. However, the two persons, i.e., respondent No.4 and 5, who have been appointed on the said posts were promoted to the post of Assistant Divisional Officer (Fire) from the post of

Station Officer, only on 25.3.2013, i.e., 25 days after the closing date of submission of application form and thus they were not even eligible to apply for the said posts.

9.4 The said two persons appointed on the post of the Divisional Officer (Fire) selected by Respondent No.3 did not possess the essential work experience as prescribed by the Recruitment Rules on the date of determination of their eligibility and hence, their recruitment is illegal *ab initio* and liable to be set aside. Reliance has been placed on the judgment of the Hon'ble Apex Court in the case of **Rajasthan Public Service Commission vs. Kaila Kumar Paliwal & Anr.** Dated 2.5.2006.

9.5 Counsel further stated that UPSC, i.e., Respondent No.3 could not have relaxed experience qualification in the middle of selection procedure. Even if the UPSC wanted to relax the said essential qualification, it ought to have issued a fresh advertisement detailing the new parameters/qualifications relevant for appointment so that other eligible candidates from all over India could have applied and best among them could have been selected and thus there has been gross violation of Articles 14 and 16 of the Constitution of India by respondent no.3. In support of this contention, learned counsel placed reliance on the judgment of the Hon'ble Supreme Court in the case of **Bedanga Talukdar vs. Saifudullah Khan and others**, AIR 2012 SC 1803.

10. Counsel for the respondent no.4 has also submitted his written arguments in which he submitted that so far as other arguments relating to eligibility of appointment of respondent no.4 on the said post is concerned, the same has already been adjudicated by this Tribunal while deciding the OA 1614/2016 (**Sumesh Kumar Dua vs. G.N.C.T. of Delhi and others** decided on 30.5.2018).

10.1 He further submitted that L shaped roster for the said post would be followed as given in the DOP&T OM dated 2.7.1997 (Annexure P-6 pages 40 to 49 of the OA). The relevant clauses of the DOP&T circular are extracted below:-

*“5. At the stage of initial operation of a roster, it will be necessary to adjust the existing appointments in the roster. This will also help in identifying the excesses shortages, if any, in the respective categories in the cadre. **This may be done starting from the earliest appointment and making an appropriate remark “Utilized by SC/ST/OBC/GEN,” as the case may be, against each point in the rosters as explained in the explanatory notes appended to the model rosters.** In making these adjustments, appointments of candidates belonging to SCs/STs/OBCs which were made on merit (and not due to reservation) are not to be counted towards reservation, so far as direct recruitment is concerned. In other words, they are to be treated as general category appointments.*

6. Excess, if any, would be adjusted through future appointments and the existing appointments would not be disturbed.”

10.2 He further submitted that two persons, i.e., Surender Kumar and Santosh Kumar were appointed to the said post on 3.6.1988 and 27.11.1995 respectively against reserved SC vacancies. The advertisements inviting applications for

appointment to the post (reserved SC) and the appointment orders of the above two persons are annexed as Annexure A-1 (Colly.) to the present written submissions. Now the L based roster would apply as under:-

	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	11th
UR											
UR											
UR	OBC	UR	UR	SC	OBC	UR	UR	UR	OBC	UR	ST

This is the model roster in case the vacancies were to be filled up in normal course where there are three posts. Admittedly, there are three posts which are earmarked under the DR quota in the post of DO (F). Thus, out of 13 vacancies which are filled only one is to be filled by a reserved SC candidate. The roster has to be operated right from the earliest point of time as per paras 5 and 6 reproduced above. Since 1987, eight persons have been appointed under the D.R. quota details of which are given herebelow:-

S.No.	Name	Date of appointment	Wether SC
1	Surender Kumar	03.06.1988	SC
2	Ajay Kumar Sharma	13.01.1992	No
3	G.C. Mishra	08.04.1996	No
4	Santokh Singh	11.12.1995	SC
5	Atul Garg	02.05.2002	No
6	Than Singh Sharma	11.10.2005	No
7	A.K. Gupta	15.12.2005	No
8	Virendra Singh	16.07.2010	No

10.3 Thus, as per the roster only 1 SC should have been appointed out of 13 persons but already 2 SC candidates have been appointed to the post of DO (F). Thus, there is

already one access SC candidate who has been appointed to the post of DO (F) under the direct recruitment quota. Thus, the excess have to be adjusted and the promotional posts fall under the SC quota as claimed by the applicant. Even otherwise, the application of the L based roster would show that the post-in-question falls in the 6th and 7th replacement columns. The said columns are highlighted in the table below:-

	1 st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	11th
UR											
UR											
UR	OBC	UR	UR	SC	OBC	UR	UR	UR	OBC	UR	ST

10.4 In other words, the first three persons are UR as reflected in the table and thereafter the SC has to come in as the 7th person. The present vacancies are the 6th and the 7th replacements which are under the UR category. Thus, even applying the roster as it is even then the post does not fall in SC category. Thus, the argument of the applicant that the post has to fall under the SC quota is misconceived and the OA is liable to be dismissed.

11. Before advertng on the merits of the case, we proceed to decide the preliminary objections raised by the respondents, i.e, multiple reliefs, delay and latches, limitation.

11.1 So far as the issue of multiple reliefs is concerned, we do not find any merit in the submissions of learned counsel for the respondents, as noted above in this regard, as all the

reliefs claimed in this OA are related to challenge to the Advertisement No.02/2013 and appointment of respondent nos.4 and 5 pursuant to thereof.

11.2 So far as the issue of delay, laches and limitation is concerned, we find that applicant challenged the impugned Advertisement No.02/2013 in the year 2013 itself by filing a Writ Petition but due to territorial jurisdiction lies with this Tribunal, the Hon'ble Delhi High Court transferred the Writ Petition before this Tribunal which was later registered as TA 73/2013. So we are of the view that there is no delay in challenging the impugned Advertisement No.02/2013 as well as appointment of respondent nos.4 and 5 pursuant to the said advertisement.

12. Now coming to merit of this case, having regard to the facts of the case and submissions of learned counsel for the parties, the following issues arise for adjudication in this case:-

- (i) Whether respondent nos.1 and 2 were justified in deciding to fill up two posts of DO (F) by way of direct recruitment without reserving one of the two posts for SC category candidate?;
- (ii) Whether the entire gamut of selection process initiated through Advertisement No.02/2013 is violative of the reservation policy/instructions issued

by the Government and is sustainable in the eyes of law?; and

- (iii) Whether the selection and appointment of private respondent nos.4 and 5 made by the official respondents in pursuance of the Advertisement No.02/2013 during pendency of the Writ Petition/TA are liable to be interfered with?
- (iv) Whether after participation in the selection process for the post in question the applicant can be allowed to question the selection process?

13. So far as aforesaid (i) issue is concerned, the official respondents have categorically stated that they have followed 13 point Master roster, as has been provided in the OM of 1997. They have also stated that aforesaid advertised two vacancies, as per 13 point model roster, were for the 6th and 7th replacement after initial recruitment of three vacancies, as shown in the annexure annexed with the amended OA, which clearly shows that 6th and 7th replacement vacancies were for two unreserved category. Therefore, the contention of the applicant that the vacancies advertised vide Advertisement No.02/2013 meant for reserved category and not for unreserved category is without any basis. Further the official respondents have annexed the earlier Advertisement issued for filling up the post of DO (F) under SC category in DFS with their Additional affidavit filed on 30.7.2014 and have also

produced another earlier Advertisement No.10 issued by the UPSC in the year 1994 vide which two posts of DO (F) were notified, out of these two posts, one was meant for ST but to be treated as reserved for SC candidate if no suitable ST candidate was available. Hence, this issue is answered accordingly.

14. Now coming to (ii) issue, having regard to the pleadings on record, we are of the view that once we came to the conclusion that the said vacancies were rightly notified vide Advertisement No.02/2013 as meant for unreserved category, entire gamut of selection process initiated through Advertisement No.02/2013 cannot be said to be violative of the reservation policy/instructions issued by the Government and is sustainable in the eyes of law.

Further in the case of **Sumesh Kumar Dua** (supra), the coordinate Bench of this Tribunal held as follows:

29. Before deciding the 2nd issue, we have to go through the recruitment rules meant for the post of Divisional Officer. The relevant extract of Recruitment Rules for appointment to the said post is as under:-

“(ii) 7 years professional experience, out of which at least 5 years experience should be in the capacity of Assistant Divisional Officer (Fire) or equivalent in a Fire organisation, preferably of a Metropolitan City.”

It is undisputed fact that the respondent no.5 had an experience of nearly 11 years in the relevant fields and had served in various capacities like Station Officer in DFS and as Fire Officer/Senior Fire Officer in DMRC. Likewise the respondent no.6

*had an experience of nearly 11 years 3 months and 27 days in the relevant fields and has served in various capacities like Fire Officer in Delhi Development Authority, as Station Officer in Delhi Fire Service and as Manager Fire in Delhi Metro Rail Corporation. Thus the respondent no. 5 and 6 met the requirement of adequate experience under the provisions of the Recruitment Rules and, therefore, were shortlisted to be called for interview. Moreover, **this Tribunal cannot interfere in the matter of eligibility of respondents, once the expert Committee, i.e. UPSC found them eligible, unless malafide is shown.** In the present case, no malafide has been alleged.*

(emphasis supplied)

15. So far as the (iii) issue is concerned, as no stay was granted by this Tribunal, the official respondents have rightly proceeded in the matter of selection of the aspirant candidates for the post of DO (F) during the pendency of this TA.

16. Now so far as (iv) issue is concerned, we would like to mention that at the very initial stage of advertisement of two posts of DO (F), the applicant was aware that these were meant for unreserved category. Despite this, he has applied for the said post as a general category candidate although he belongs to SC category. When the selection came to the stage of interview, he approached the Hon'ble Delhi High Court challenging the very advertisement by filing a said Writ Petition as well as selection of private respondents and the said writ petition was later on transferred and registered as TA 73/2013. Neither the Delhi High Court nor this Tribunal

granted any stay at any stage. Consequently respondents proceeded to fill up the said posts and accordingly, respondent nos.4 and 5 were selected by following due process of selection as per the rules and provisions in this regard. It is further relevant to mention that the issue of eligibility of respondent nos.4 and 5 was challenged by one Shri Sumesh Kumar Dua by filing OA 1614/2016. However, this Tribunal vide Order dated 30.5.2018 dismissed the said OA 1614/2016. Further, it is a well settled principle of law that when a candidate applied for the post in question as a General category candidates, despite of being SC candidate, cannot be permitted to challenge the advertisement subsequently at the stage when he was called for appearing in the interview scheduled to be held on the ground that the same is illegally issued.

17. In the result, for the foregoing reasons, we do not find any merit in the instant TA and the same is accordingly dismissed. There shall be no order as to costs.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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