

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

OA-2874/2014

Reserved on : 18.05.2018.

Pronounced on : 29.05.2018.

Hon'ble Mr. Raj Vir Sharma, Member (J)

Hon'ble Ms. Praveen Mahajan, Member (A)

Ms. Pramila,
Aged about 33 years,
D/o Sh. Umed Singh,
R/o Village Bawana,
Delhi-110039.

.... Applicant

(through Sh. M.K. Bhardwaj, Advocate)

Versus

Govt. of NCT of Delhi through:

1. The Chief Secretary,
Govt. of NCT of Delhi,
Delhi Secretariat, I.P. Estate,
Delhi.
2. Delhi Subordinate Services Selection
Board through its Secretary,
FC-18, Karkardoma Institutional Area,
Delhi-110092.
3. The Director,
Directorate of Education,
Old Secretariat, 5 Sham Nath Marg,
Delhi.

.... Respondents

(through Ms. Neetu Mishra for Ms. Rashmi Chopra, Advocate)

O R D E R

Ms. Praveen Mahajan, Member (A)

Briefly stated, the facts of the case are that the respondents issued advertisement No. 01/13 for various posts. The applicant after

fulfilling the required qualifications applied for Post Code No. 02/13 (Librarian). The applicant states that though she met the eligibility conditions prescribed in the advertisement, the respondents rejected the application of the applicant and put up the names of all the candidates whose applications were rejected for various reasons on the website. Thereafter, the respondents issued notice dated 10.09.2013 for permitting the candidates to remove the defect, which had resulted in cancellation of their candidature.

2. The applicant approached the respondents and clarified that she possessed the requisite degree, hence rejection of her candidature on the ground of "No Degree" is not correct. The respondents permitted the applicant to submit an application along with necessary documents with the application.

3. Thereafter, the respondents issued Notification dated 22.07.2014 stating that the written examination for the post of Librarian will be held on 31.08.2014. The applicant approached the respondents by way of an application regarding issue of admit card for appearing in examination for appointment to the post of Librarian stating that the objection raised by the respondents regarding possessing degree has already been removed and that she had submitted a copy of Bachelor Degrees in Arts and Library Science before 20.09.2013.

However all of a sudden, the respondents rejected the applicant's request for claiming eligibility, without assigning any reason.

4. Aggrieved by the action of the respondents, the applicant has filed the current O.A. seeking the following reliefs:-

- “(i) To declare the action of the respondents in cancelling the candidature of applicant for appointment to the post of Librarian, Directorate of Education, as illegal and arbitrary and direct the respondents to treat the applicant eligible for appointment to the aforesaid post.
- (ii) To direct the respondents to treat the applicant eligible for appointment to the post of Librarian, Directorate of Education and consider her for appointment with all consequential benefits.
- (iii) To declare the applicant eligible for consideration for appointment to the post of Librarian, Directorate of Education as per the qualification prescribed by her.
- (iv) To allow the OA with cost.
- (v) Any other orders may also be passed as this Hon'ble Tribunal may deem fit and proper in the existing facts and circumstances of the case.”

5. In reply, the respondents have averred that the candidature of the applicant for Post Code-2/13 was rejected on the ground that she had not bubbled the requisite column 12 B(1) mentioning her essential qualification and as per the conditions of recruitment/selection incomplete or incorrectly filled up applications cannot be considered. The respondents have relied upon the judgment of the Hon'ble High Court in WP(C) -5271/2011 (**Vijay Malik Vs. Staff Selection Commission**) wherein the following has been held on 12.08.2011:--

- “1. Counsel for the Respondent produces a copy of the letter dated 10th August 2011 issued by the Staff Selection Commission in which it is stated that the record of the Petitioner was checked. It was found from his OMR marksheet that he had not correctly coded his own roll number with reference to the attendance sheet and that his candidature is therefore liable to be rejected.
2. In that view of the matter, the reliefs sought in the writ petition cannot be granted. The writ petition and pending applications are dismissed.”

The above view, they state, was reiterated in WP(C) -8364/2011

(Mohit Sharma Vs. Staff Selection Commission) wherein the Hon'ble

High Court has held that:-

“1. It is not in dispute that the petitioner has wrongly coded his roll number in the front page of OMR Answer Sheet. Because of this reason, he was awarded zero marks in the subject of English CGL 2011 – TIER-II examination. We find that there were clear instructions in the said OMR Answer Sheet in the following terms:

Answer Sheet with incorrect coding of any of the particulars would be awarded Zero marks.

2. In these circumstances, the action of the respondent Staff Selection Commission in awarding zero marks cannot be faulted with. We are of the opinion that the Tribunal has rightly dismissed the application of the petitioner.”

5.1 The respondents submit that applicant should have been vigilant while filling up the form. They have also relied on the judgment of Hon'ble Supreme Court in the case of **Karnataka Public Service Commission & Ors. Vs. B.M. Vijaya Shankar & Ors.**, 1992 SCC (2) 206 wherein the following has been held:-

"...More important than this is that provisions attempting to infuse discipline in competitive to be conducted by the Commission cannot be construed with same yardstick as a provision in penal statutes...The action could not be termed as arbitrary. Nor it was abuse of power which could be corrected by judicial review.

Such instructions are issued to ensure fairness in the examination.....What was attempted to be achieved by the instruction was to minimize any possibility or chance of any abuse. Larger public demands of observance of instruction rather than its breach."

It is submitted that the above decision has been followed by Hon'ble High Court of Kerala in the case of **B.P. Ranjith Vs. The Kerala Public Service Commission**, WP(C)-7904/2010.

5.2 Relying on the aforesaid judgments, the respondents submit that the applicant is not entitled for any relief and the current O.A. be dismissed being devoid of merit.

6. We have gone through the facts of the case and considered the rival submissions of both sides.

7. Learned counsel for the applicant Sh. M.K. Bhardwaj, placed before us the essential educational and other qualifications required for the Post Code applied for. He argued that due to tension and stress of the exam, the applicant failed to bubble the Column 12 b (1). However, she cannot and should not be deprived of her claim to the post on account of this minor inadvertent error. Especially, since she is fully eligible and possesses the requisite qualifications, as stipulated in the advertisement. In support of his contentions, the

learned counsel relied upon the judgment of Hon'ble Rajasthan High Court in the case of **Savita Vs. State of Rajasthan** [Civil Writ Petition No. 12391/2010) dated 12.07.2011.

8. Per contra, these were vociferously rebutted by learned counsel for the respondents Ms. Neetu Mishra. She placed reliance on the judgment of this Tribunal in OA-4572/2014 (**Devender Yadav & Ors. Vs. DSSSB**) dated 12.08.2016 and submitted that their action in rejecting the case of the applicant cannot be faulted. She reiterated the averments made in the counter to the OA and pleaded for dismissal of the prayer.

9. We have gone through the facts of the case and considered the rival submissions of both sides. The applicant's candidature for Post Code-69/10 has been rejected on the ground that she had not bubbled the requisite column-12 b(1) as required. It is not the case of the respondents that the applicant lacks eligibility in terms of the advertisement regarding her participation in the process of selection. Admittedly, a mistake has been committed by the applicant but it is not of such a grave nature as to warrant such a harsh punishment.

10. This view finds support in judgment of a Co-ordinate Bench of this Tribunal on 28.01.2016 in **OA-4362/2014** (Ms. Deepika Bhagat Vs. GNCTD & Ors.) wherein the following has been held:-

"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 filing up the application forms or in the 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.

12. This Tribunal disposed of a batch of OAs bearing OA No.4445/2014 (Neha Nagar v. Delhi Subordinate Services Selection Board & Others), decided on 18.12.2015 and OA No.4583/2014 (Santosh v. Delhi Subordinate Services Selection Board & Anr.), decided on 30.10.2015 (pertaining to same notification), after considering a catena of cases whereunder the Courts held that the indiscretions committed by the youngsters while filling the OMR Sheets, etc. shall be condoned and that their candidatures should be considered on merits along with others. Since the present OA is also identical, we are disposing of this OA on the same lines.

13. In view of the above legal position and in view of the fact that the applicant was already permitted to take the examination provisionally by virtue of the interim orders dated 22.12.2014 and her 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 O.A.No.4582/2014 5 respondents are directed to declare the results of the applicant and to consider her case along with others as per her merit, after verifying her qualifications or otherwise satisfying themselves with her suitability, in accordance with law, within four weeks from the date of receipt of a copy of this order. The OA is disposed of, accordingly. No costs."

11. Hon'ble High Court of Judicature for Rajasthan in the case of **Savita Vs. State of Rajasthan** (Civil Writ Petition No. 12391/2010) on 12.07.2011 has discussed the judgment in CWP-8359/2009 (**Naval Kishore Sharma Vs. State & Ors.**) dated 30.11.2009. In the said judgment, the question arose whether on account of wrong Post Code being mentioned by the applicant despite being eligible for the post in question, he/she can be deprived from participating in the selection process. It was held that mere mentioning of wrong Post Code etc. cannot be considered an impediment for selection, if

the candidate is otherwise found eligible for the same. The same view has been upheld by different judicial in a catena of judgments.

12. Under these circumstances, we are inclined to allow this O.A. Accordingly, we quash the impugned order (Annexure A-1) qua the applicant by which a candidature was rejected for not possessing the required educational qualification as per OMR sheet filled by her. The respondents are directed to process the candidature of the applicant on merit, as per law. This shall be done within a period of three months from the date of receipt of a certified copy of this order. No costs.

(Praveen Mahajan)
Member (A)

(Raj Vir Sharma)
Member (J)

/Vinita/