

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

M.A. No.1822/2018 in O.A.No.517/2018

Reserved on 7th May 2018

Pronounced on 16th May 2018

**Hon'ble Mr. Justice Dinesh Gupta, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Delhi Atithi Shikshak Sang
Through Prabhanjan Kumar Jha & another

(Mr. R K Shukla, Advocate)

..Applicants

Versus

Govt. of NCT of Delhi & others

..Respondents

(Mr. R N Singh, Mr. Vaibhav Pratap Singh and Mr. Amit Sinha, Advocates
with Mrs. Suman Verma, Section Officer, Departmental Representative)

O R D E R on interim relief

Mr. K.N. Shrivastava:

The applicants, who are original applicants in O.A. No.517/2018, through the medium of this M.A., have prayed for direction to the respondent No.2 – Delhi Subordinate Services Selection Board (DSSSB) to accept the application of the overage candidate vide Annexure MA-3 and issue the ID in respect of 30 candidates, so that their applications could be digitized. These applicants intend to apply for various posts; details of which are mentioned in Annexure MA-3 (Advertisement No.04/17). As they were not getting the benefits of age relaxation in terms of Rule 43 of the Delhi School Education Rules, 1973, they approached the Tribunal in the *ibid* O.A. During the course of hearing on 31.01.2018 regarding their prayer

for interim relief, we passed an interim order; operative part of which reads as under:-

“In the meantime, it is directed that offline applications of the applicants (hard copies) (shown in Annexure A-2 & Annexure A-3) be entertained and the applicants be also issued admit card and allowed to participate in the examination provisionally. Their claim for CTET exemption and age relaxation shall also be considered. Such participation shall not confer any right or equity in favour of the applicants and will remain subject to any order that may be passed by the Tribunal or the final outcome of this O.A. However, the result of the applicants shall not be declared without the leave of the Tribunal (Annexure A-2 & Annexure A-3) are also made part of this order.”

2. *Dasti* orders were issued to the applicants. It is stated that the *dasti* orders from the Dispatch Branch of the Tribunal's Registry were received late in the evening that day, and by the time they could approach the Office of DSSSB, the office hours of DSSSB was over and hence the applicants could not submit their applications on 31.01.2018, i.e., the last day of submission. Consequently, the next day, i.e., 01.02.2018, the applicants sent their applications through Speed Post to the DSSSB together with the Tribunal's order. It is stated that the DSSSB has published a Notice dated 04.04.2018 wherein it is stated that “the applications of only those candidates received on or before 31st Jan, 2018 have been treated as valid provided the name of the candidate appear in the Memo of parties of the relevant OA, on which the Court has passed the such orders. Rest of the applications have been treated as invalid and accordingly been automatically rejected without any reference to the applicant....”

3. Learned counsel for applicants, during the course of hearing of this M.A., submitted that due to the circumstantial factors, it was just not possible for the applicants to serve the interim order the Tribunal dated

31.01.2018 and submit their offline applications to DSSSB on that very day itself, and as such they could submit their applications the next day. He thus argued that the benefits of interim order dated 31.01.2018 should be ensured to the applicants and DSSSB be directed to accept their offline applications submitted on 01.02.2018.

4. *Per contra*, Mr. R N Singh, learned counsel for respondents argued that the applicants were given a copy of interim order dated 31.01.2018 on the same day in the evening for serving the same on the DSSSB by *dasti*. He further stated that DSSSB had kept its office open up to 11.00 PM for receiving such applications, as they were sounded out about interim orders some hours in advance.

5. Mr. R N Singh vehemently argued that since the applicants failed to submit the applications on 31.01.2018, which was the last date for receiving the applications, and they submitted their applications on the next day, i.e., after the last date of receiving the applications, the DSSSB was well within its rights not to entertain such applications. In this regard, the learned counsel relied upon the judgment of Hon'ble Supreme Court in **Secretary, Union Public Service Commission & another v. S. Krishna Chaitanya** [(2011) 14 SCC 227]

6. We have considered the rival arguments of learned counsel for the parties and have also perused the records.

7. Indisputably, the *dasti* order of the Tribunal dated 31.01.2018, in regard to the interim relief, was issued to the applicants late in the evening. There were a large number of applicants in various O.As., who were also the

beneficiaries of the interim order. Most of them submitted their offline applications on the same day with a copy of the *dasti* order to DSSSB. Therefore, the contention put-forth on behalf of the applicants that by the time they received the *dasti* orders, the office hours of DSSSB was over, as a result they could not submit their offline applications, is to be taken with a pinch of salt. It looks that these applicants had failed to verify that the DSSSB was indeed working beyond the office hours on that day.

8. We have gone through the *ibid* judgment of the Hon'ble Apex Court in **S. Krishna Chaitanya**. In that case, the respondent (S. Krishna Chaitanya) was desirous of taking Civil Services Examination (CSE), 2010. He had sent his application for CSE, 2010 by a private courier to Union Public Service Commission (UPSC). The courier had stated that it had delivered the application to UPSC the very next date but UPSC had said that it had never received it. The Hyderabad Bench of this Tribunal, much after the last date of submission of application, had permitted S. Krishna Chaitanya to submit a copy of the application to UPSC and had issued an interim order allowing him to appear in the CSE, 2010 and thereafter confirmed the interim order as absolute. The Hon'ble Andhra Pradesh High Court had dismissed the Writ Petition of UPSC against the Tribunal's order. Hon'ble Apex Court, however, in a Civil Appeal of UPSC, set aside the Tribunal's order on the ground that the Tribunal did not come to a definite finding that the original application was indeed delivered to UPSC and the candidate did not make any inquiry with UPSC in time as to the receipt of the application.

9. We are of the view that the judgment of Hon'ble Supreme Court in **S Krishna Chaitanya's** case (supra) does not apply to the present case on the ground of facts being different. In this case, the Tribunal indeed, vide its interim order dated 31.01.2018, had issued direction to the DSSSB to accept offline applications of these applicants, but they could not submit their applications on the same day and instead did it the next day, for the reasons that they have mentioned in the M.A.

10. The contention of the applicants that the office hours of DSSSB was over by the time the *dasti* orders were received by them and thus, they decided to submit the applications the next day, i.e., 01.02.2018, cannot be countenanced. If other similarly situated applicants in other O.As. could submit their applications on the same day, i.e., 31.01.2018, then these applicants could have also done so. Their inaction reflects poorly on their seriousness. We may also like to observe that if the relief prayed for in this M.A. is allowed, it would tantamount to extension of the last date of receipt of the applications, which would be patently illegal. Hence the prayer is declined.

11. In view of the discussions in the pre-paragraph, the M.A. is dismissed.

12. List O.A. on 06.08.2018, as already ordered.

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

(**Justice Dinesh Gupta**)
Chairman

/sunil/