

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

M.A. No.60/1808/2017

O. A. No.60/1206/2017

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Date of decision: 23.04.2018

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**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).
HON'BLE MRS. P. GOPINATH, MEMBER (A).**

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Kavita Mehra, aged 30 years, W/o Satish Kumar, D/o Om Parkash, R/o VPO-Bhushan Kalan, Teh-Narnaul, Distt. Mahendergarh, State Haryana Narnaul, Haryana.

... APPLICANT

VERSUS

1. Chandigarh Administration through the Secretary, Education Department, Union Territory Secretariat, Deluxe Building, Sector-9, Chandigarh.
2. The Director Public Instructions (S), Chandigarh Administration, Union Territory, Deluxe Building, Sector-9, Chandigarh.

... RESPONDENTS

PRESENT: Sh. G.C. Shahpuri, counsel for the applicant.
Sh. A.L. Nanda, counsel for the respondents.

ORDER (Oral)

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SANJEEV KAUSHIK, MEMBER (J):-

1. Present O.A. has been filed impugning the order dated 16.09.2015 whereby candidature of the applicant has been cancelled by the respondents as she did not possess the qualification as prescribed by respondents in the advertisement. Along with the O.A. the applicant has also moved application seeking condonation of 449 days delay in filing the O.A.
2. This Court, at first instance, issued notice in M.A. for condonation of delay to which the respondents have filed reply.
3. We have heard learned counsel for the parties.
4. Learned counsel for the applicant submitted that the issue of having higher qualification has already been decided in his favour by holding that if a person is not having elective qualification and is

having higher qualification than in the advertisement, then he/she cannot be declared non-suitable. He placed reliance on order dated 21.10.2015 in the case of **Ambika vs. Union of India & Ors.** (T.A. No.60/00016/2015).

5. On account of delay, he has submitted that applicant has already given reasons in M.A. for not approaching the Court in time.
6. Per contra, learned counsel for the respondents vehemently opposed prayer for condoning huge delay of 449 days in filing O.A. To support his contention, he placed reliance on judgment of Apex court in **Union of India & Ors. v. M.K. Sarkar** (2010 (2) SCC 59) and judgment in case of **Union of India & Ors. Versus A.Duairaj** (J.T. 2011(3) S.C. Page 254) and prayed that since applicant has not given plausible reasons for condoning delay, therefore, M.A. be dismissed.
7. On merit, he argued that applicant has no case. He submitted that Co-ordinate Bench vide order dated 25.09.2017 in the case of **Lakhvir Singh vs. Union of India & Ors.** (T.A. No.60/20/2015) has already held that if a person is not having qualification prescribed in the advertisement then view taken by the department in treating him ineligible for the post cannot be interfered with.
8. We have given our thoughtful consideration to the entire matter and are in agreement with the submissions made at the hands of the respondents that huge delay of 449 days in filing the O.A. cannot be condoned particularly when applicant has not given any plausible reasons for the purpose.
9. On merit also, the applicant has no case. The Courts have repeatedly held that those who have slept over their right deserve

no sympathy. Delay will take away their right if they failed to explain delay to the satisfaction of the Court. Since applicant has failed to satisfy this Court, therefore, we see no reason to condone huge unexplained delay. The judgment relied upon by the applicant in O.A. has already been stayed by the Hon'ble High Court copy of which has been appended with application for condonation of delay (Annexure R-1). Recently, this Tribunal in the case of Lakhvir Singh has already returned finding in favour of the respondents that if a person is not having qualification as prescribed in advertisement, then he/she cannot claim benefit of having higher qualification for considering him eligible for appointment. Similar view has already been expressed by Lordships in case of **District Collector and Chairman Vizianagaram (Social Welfare Residential School Society) vs. M. Tripura Sundari Devi** (1990 (4) SLR 237 para nos. 4 and 6 and in the case of **Dr. Arunpreet Kaur & Others vs. M.D. Punjab Health System Corporation, Phase VI, Mohali and Ors.** (2012 (4) SCT 909). Since applicant did not possess the prescribed qualification of English as Elective subject in Graduation as prescribed in the advertisement, therefore, view taken by the respondents in cancelling her candidature cannot be interfered with. Hence applicant has no case even on merit.

10. In view of the above discussion M.A. along with O.A. is hereby dismissed being devoid of merit.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Date: 23.04.2018.

Place: Chandigarh.

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