

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

O.A.NO. 060/00269/2016 Date of order:- 4.5.2018.

Coram: **Hon'ble Mr. Sanjeev Kaushik, Member (J)**
Hon'ble Mrs.P.Gopinath, Member (A).

Meenakshi daughter of Sh. Satpal Jindal, resident of House NO.108, Prem Basti, District Sangrur(Punjab).

.....Applicant.

(By Advocate :- None)

Versus

1. Union Territory, Chandigarh through its Secretary, Department of Education, First floor, Additional Deluxe building, Sector 9, Chandigarh.
2. Director (School Education), Department of Education, first floor, Additional Deluxe building, Sector 9, Chandigarh.

...Respondents

(By Advocate : Shri Arvind Moudgil).

O R D E R

Sanjeev Kaushik, Member (J):

Applicant assails order dated 21.1.2016/12.2.2016 (Annexure P-9) whereby her claim for appointment as TGT(Maths) under general category has been rejected on the ground that there is no vacant post in her quota. She further sought direction from this Tribunal to direct the respondents to offer her appointment as TGT(Math) with all consequential benefits.

2. Facts which led to filing of the OA are that the respondent Chandigarh Administration issued an advertisement in the month December, 2014 inviting applications for filling up 548 posts of Masters/Mistresses(TGT) on regular basis in various distances including 27 posts of TGT(Maths) out of which 11 posts were reserved for general category, 8 for OBC & 8 for SC category candidates. As per advertisement, one post was reserved for physically handicapped, one for Sportsman and three for ESM category, the candidates appointed against sports, PH & ESM quota will consume the posts from the respective category to which they belong i.e. General/SC/OBC.

3. Applicant who belongs to general category being eligible participated in the selection process. She was declared successful and her name was placed at sr.no.11 in the combined merit list. The respondents had offered appointment to eight candidates under general category and three candidates under reserve category. The applicant who is at sr.no.11 in the combined merit list stake her claim for appointment as one candidate who is at sr.no.9 i.e. Ms. Neha Rani has been shifted to OBC and she joined there. Since the applicant's name came within merit of the advertised posts, she stake her claim for appointment as TGT(Math). When the applicant was not offered appointment, she earlier approached the Tribunal by filing O.A.No.060/01028/2015 which was disposed of vide order dated 4.11.2015 with a direction to the respondents to decide her pending claim by deciding legal notice within a period of three months from the date of receipt of certified copy of the order. It is thereafter the

respondents have passed the impugned order rejecting her claim. Hence the OA.

4. The respondents while resisting the claim did not dispute the factual accuracy. However, they submitted that out of these 27 posts, five posts were reserved i.e. one post for PH, one for Sports, three for ESM category and one post reserved for PH category was carry forward for future selection. Since the applicant was not within the zone of consideration of the advertised posts, therefore, her claim was rejected.

5. Neither the applicant nor her counsel has put in appearance despite one pass-over. We have heard Shri Arvind Moudgil, Advocate, for the respondents and have perused the pleadings available on record with his able assistance.

6. Solitary issue which the applicant has raised before this Court is that since eleven vacancies were to be filled up from general category candidates and the applicant being at sr.no.10, has to be offered appointment due to non-availability of candidates under PH, sports and ESM category.

7. It is not in-dispute that total 27 posts were notified for TGT(Math) out of which eleven were reserved for general category candidates, eight for OBC and eight for SC category candidates. It has also been stipulated in the advertisement that one post for PH, one post for sports and three were reserved for ESM by giving them horizontal reservation. The candidates of these categories will

consume the posts from the respective category. It is also clear from the advertisement that there is no backlog of posts in the above three categories i.e. PH, sports and ESM category. It is settled proposition of law that horizontal reservation cut across vertical reservation (in what is called interlocking reservation) and the person selected against these reservations has to be placed in the appropriate category, that is to say, if he belongs to SC category, he will be placed in that quota by making necessary adjustment and similarly if he belongs to open competition, he will be placed in that category by making necessary adjustment. Even after providing for these horizontal reservations, the percentage of reservation in favour of each category should remain the same. The concept of horizontal reservation has been considered by the Lordships in the case of **Shiv Prasad versus Government of India & Ors.** (2008(10) S.C.C. Page 382 and then in the case of **Jitendra Kumar Singh versus State of Uttar Pradesh** (2010(3) S.C.C. Page 119), wherein the Lordships have laid down how the horizontal reservation has to be granted to these categories. In the present case, Chandigarh Administration has notified 27 posts of TGT(Maths), out of which 11 were reserved for general category, eight for OBC category and eight for SC category. While giving horizontal reservation to PH, sports person and ESM, admittedly, no candidate under these categories was found available to offer appointment. It is also not disputed that out of 11 notified posts of general category of TGT (Maths), the respondents have offered appointment to eight candidates, as such, three posts are still lying vacant. Earlier, the applicant was in waiting list and was not within the zone of consideration of the notified posts. Since no person from the above three categories,

who has to be given horizontal reservation, was available, therefore, these posts cannot be carry forward. When reservation is horizontal and candidates are not available, then it will go to the same very category.

8. In view of above, the view taken by the respondents vide impugned order dated 21.1.2016/12.2.2016 (Annexure P-9) is hereby quashed and set aside. The respondents are directed to offer appointment to the candidate who is next in merit in his/her category.

**(SANJEEV KAUSHIK)
MEMBER (J)**

**(P.GOPINATH)
MEMBER (A).**

Dated:- May 4 , 2018.

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