

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 2090/2016

Reserved on 28.02.2019
Pronounced on 28.03.2019

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

Ms. Nirmala, aged 36 years,
w/o Shri Pritam Singh,
R/o T-609/2A, Street No.7,
Street No.7, Baljeet Nagar,
New Delhi-8.

... Applicant

(By Advocate Mr. Yogesh Sharma)

VERSUS

1. Govt. of NCT of Delhi,
Through the Chief Secretary,
New Sectt., I.P. Estate,
New Delhi.
2. The Chairman,
Delhi Subordinate Services Selection Board,
FC-18, Institutional Area,
Karkardooma, Delhi.
3. The Commissioner ,
Delhi Jal Board, Varunalaya Phase-II,
Karol Bagh, New Delhi.

... Respondents

(By Advocate: None)

ORDER

Hon'ble Mr. S.N.Terdal, Member (J):

We have heard Mr. Yogesh Sharma, counsel for applicant. No one is present on behalf of respondents. Hence, we proceed to decide this OA as per the provisions of Rule 16 of the Central Administrative Tribunals (Procedure) Rules, 1987 after perusing the pleadings and all the documents available on record.

2. In this OA, the applicant has prayed for the following reliefs:

- “(a). That the Hon’ble Tribunal may graciously be pleased to pass an order declaring to the effect that whole action of the respondents not considering the next eligible persons from the merit list of written test against the unfilled vacancy to the post of Junior Stenographer, after declaring other candidates who were called for shorthand and typewriting speed skill test as unsuitable, is illegal, arbitrary and discriminatory and consequently pass an order directing the respondents to consider the applicant and similarly suitable persons being a next written qualified candidate for the post of Junior Stenographer against 17 UR post with all consequential benefits.
- (ii). Any other relief which the Hon’ble Tribunal deem fit and proper may also be granted to the applicant.”

3. The relevant facts of the case are that in response to the advertisement no.004/2009 issued by the respondents Delhi Jal Board, the applicant applied as UR category for the post of Junior Stenographer. The applicant appeared in the examination held on 27.7.2014 and she secured more than minimum qualifying marks of 40% namely 90.50 marks, nevertheless she was not called by the respondents for the qualifying shorthand and typewriting speed skill test which was held between 11.4.2015 to 14.4.2015, though 150 candidates were called and, therefore, as averred by the applicant, the action of the respondents is illegal, arbitrary and discriminatory and on that basis she has prayed for the above stated reliefs. The counsel for the applicant vehemently and strenuously contended that in view of the above stated facts, the action of the respondents is totally arbitrary and in support of his submission he relied upon the order of this Tribunal in the case of **Gulshan Kumar Vs. GNCT of Delhi** (OA 2303/2013) and the law laid down by the Hon’ble Supreme Court in the case of **Director, SCTI for Medical Science & Technology and Another Vs. M.Pushkaran** (JT 2007(13)SC 315).

4. The respondents in their counter affidavit stated that though the applicant had secured 90.50 marks and that was above the minimum qualifying marks of 40% but, however, due to huge number of candidates having secured above 40% only those who had secured more marks were called for skill test and the last candidate who was called for the skill test had secured 102.5 marks and 56 candidates who had secured more than the marks scored by the applicant and less than 102.5 marks were not called for the skill test. The relevant averment is extracted below:

"4.4 The averments of these paras need no reply being matter of record. However, it is admitted that applicant secured 90.50 marks and as such she had secure above 40% qualifying marks but due to huge number of candidates who secured above 40% only those who had secured more marks were called for the skill test. The last candidate who was called for the skill test had secured 102.5 marks and applicants' marks were much less as such she was not called for the skill test. There are 56 other candidates between the last shortlisted candidates having marks 102.75 and the applicant."

5. In view of the facts narrated above, the law laid down in the above stated cases is not applicable in the present case and we do not find any arbitrariness in the action of the respondents in not calling the applicant for the skill test. Accordingly, OA is dismissed. No order as to costs.

(S.N.Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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