

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No.1916 of 2014

This the 12th day of December, 2018

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

Manish Kumar (SC)
Rill NO.7411892
Recruit ASI in Delhi Jal Board,
Aged about 30 years,
S/o Sh. Ranjeet Singh
R/o 166, VPO : Nangal Thakran,
Delhi-39.

....Applicant
(By Advocate : Shri Anil Singal)

VERSUS

1. Delhi Subordinate Services Selection Board,
Through its Chairman,
FC-18, Institutional Area,
Karkardooma, Delhi-92.
2. Delhi Jal Board,
Through its Chairman,
Varunalaya Bhawan,
Phase II, Jhandewalan,
Karol Bagh, New Delhi.

.....Respondents
(By Advocate : Shri Rajeev Kumar)

ORDER (Oral)

Ms. Nita Chowdhury, Member (A):

Heard learned counsel for the parties.

2. By filing this OA, the applicant is seeking the following reliefs:-

“1. To quash and set aside the Final Result dt. 1.5.2014 to the extent it does not include the name of the applicant.

2. To direct the respondents to consider these SC candidates who secured 90 or more marks and adjust them against “UR Category”, and consequently consider the applicant against these 8 vacancies of “SC Category” in which he stands qualified as he being the very next candidates in merit list and issue appointment letter to him and appoint him to the post of ASI in DJB with all the consequential benefits.
3. To award costs in favor of the applicant and
4. To pass any order or orders which this Hon’ble Tribunal may deem just & equitable in the facts and circumstances of the case.”

2. Brief facts of the case as stated in the OA are that the DSSSB issued Recruitment Advertisement for the post of Assistant Sanitary Inspector (ASI) in Delhi Jal Board (DJB) having post code No.74/09 for total 49 posts (UR-23, OBC-15, SC-8, ST-3 including EXSM-5). The advertisement provided age relaxation for SC, ST, OBC, EX-SM, Govt. Servant, Departmental candidates, Divorced Women and Widow Women. However, the vacancies were reserved for only ‘SC, ST & OBC Category’ candidates including Ex-Serviceman.

2.1 Applicant applied under SC category along with other SC candidates.

2.2 The said examination consists of two stages, i.e., preliminary examination was of qualifying nature for shortlisting the candidates for appearing in the Main Examination for which the minimum qualifying marks were

40% for UR and 30% for reserved categories candidates out of 100 marks whereas final merit list of candidates was to be prepared on the basis of marks secured in the Main Examination only for which the minimum qualifying marks were 45% for UR and 35% for reserved categories candidates out of 200 marks.

2.3 Applicant appeared in the said examination in which he secured total 85 marks in the Main Examination. The applicant was selected against the SC category vacancy in the Final result declared on 20.4.2012 (Annexure A-3).

2.4 The said final result was challenged by some candidates, who were declared not eligible for not having requisite educational qualification by filing OA 2049/2012 and this Tribunal vide Order dated 13.2.2014 upheld the educational qualifications and directed the DSSSB to treat them eligible and prepare revised result.

2.5 Accordingly, DSSSB revised the result and declared the revised Final Result on 1.5.2014 in which the name of the applicant did not figure in the list of candidates declared to have been selected, which is for one other reason than that the candidates belonging to reserved category have been illegally considered only against the reserved category vacancies as the same is clear from the fact that those reserved category candidates who are within the age limit of

27 years and also secured 40 marks or more in Preliminary Examination, have also been considered against the reserved vacancies like Harish Yadav, Rohit Rana and Shiv Kumar whereas all the candidates who appeared in any examination are first required to be considered against the UR vacancies and if not selected, then to be considered against respective reserved category vacancies on relaxed standards.

2.6 From the result dated 1.5.2014, the applicant came to know that he secure total 85 marks whereas the cut off marks for UR category is 90 marks and the SC candidates who secured 90 or more marks have not been adjusted against UR category vacancies whereas there is short-fall of 9 candidates in UR category since there were 23 UR vacancies but the DSSSB did not get candidates who secured 90 marks that were required to be considered and selected against UR category.

2.7 In these circumstances, the DSSSB ought to have considered/adjusted all the SC candidates who secured 90 or more marks under UR category instead of SC category since they stood qualified in the UR category as they secured total 90 or more marks whereas the marks obtained by the last candidates selected for the post of ASI in DJB in the UR category in 90 marks. If such SC candidates who secured 90 or more marks are considered and adjusted against UR

category, there will be 8 vacancies under SC category and the applicant will get selected as he falls within next 8 candidates under SC category. Thus, the applicant shall be greatly prejudiced in the matter of recruitment to the post of ASI in DJB.

2.8 Thus, in the aforesaid circumstances, the applicant has left with no option except to approach this Tribunal.

3. In response to notice, respondent – DJB by filing reply stated that averments made by the applicant are not within the knowledge of the Delhi Jal Board, Delhi and DJB was nowhere involved in the recruitment process.

3.1 It is further specifically alleged that the applicant has not made any representation to the respondents before approaching this Tribunal as such the present OA is liable to be dismissed as departmental remedy has not been exhausted by the applicant before approaching this Tribunal.

4. During the course of hearing, learned counsel for the applicant contended that initially applicant was selected under SC category vacancies but later on when revised selection list was issued, applicant's name was not included in the same, which was basically based on wrong interpretation of the rules of selection so made by the DSSSB and as such did not send applicant's dossier to the appointing authority, i.e., DJB as they wrongly did not

exclude the candidates of SC category those who had secured 90 or more marks, which were equivalent to the last person selected in UR category, which is clear cut violation of the DOP&T OM dated 1.7.1998 which reads as under:-

“Subject: Relaxation and concessions for SCs and STs – clarification regarding.

The undersigned is directed to refer to this Department's O.M. No.36012/99-Estt.(SCT) dated May 22, 1989 and to clarify that the instructions contained in the O.M. apply in all types of direct recruitment whether by written test alone or whether test followed by interview or by interview alone.

2. O.M. dated May 22, 1989 referred to above and the O.M. No.36012/2/96-ESTT (RES) dated July 2, 1997 provide that in cases of direct recruitment, the SC/ST/OBC candidates who are selected on their own merit will not be adjusted against reserved vacancies.

3. In this connection, it is clarified that only such SC/ST/OBC candidates who are selected on the same standard as applied to general candidates shall not be adjusted against reserved vacancies. In other words, when a relaxed standard is applied in selecting an SC/ST/OBC candidates, for example in the age limit, experience qualification, permitted number of chances in written examination, extended zone of consideration larger than what is provided for general category candidates etc., the SC/ST/OBC candidates are to be counted against reserved vacancies. Such candidates would be deemed as unavailable for consideration against unreserved vacancies.”

5. On the other hand, respondent – DJB's case is that they have acted as per the dossier sent to it and applicant never approached nor did he make any representation before the respondents. Counsel for DJB also submitted that they have acted as per the finalization of merit list by DSSSB and

further that they had no means of knowing anything about the merits of this case till the OA was filed.

6. On questioning, counsel for the applicant accepted that before filing this OA, the applicant did not seek any relief from the respondents nor did he file any representation before the same.

7. In view of the aforesaid facts and circumstances of this case, this Court directs the applicant to file a representation to the respondents within 15 days from the date of receipt of certified copy of this Order. This Court further directs that DJB and DSSSB shall jointly take a decision in this regard as per the aforesaid OM of the DOP&T within 90 days and pass a reasoned and speaking order within the aforesaid stipulated period. This Court makes it clear that both the respondents, i.e., DJB and DSSSB will be held liable for implementation of this Order as the indenting agency of the recruitment in question is DJB and recruiting agency is DSSSB and both are bound by the said OM of the DOP&T and rules thereto.

8. In the result, the present OA is partly allowed in terms of the above directions. There shall be no order as to costs.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

/ravi/