

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

O.A. No.417 of 2019

This the 5<sup>th</sup> day of February of 2019

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

Vivek Kumar Sharma, aged 39 years  
Roll No.110411000563  
Group B, Subject: Appointment Post PGT-Hindi Male (UR) PH  
S/o Rajendra Prasad Sharma  
House No.140, Gali No.12,  
Govind Vihar, Karawal Nagar,  
Delhi.

....Applicant

(By Advocate : Shri Tahir Ashraf Siddiqui)

VERSUS

1. Directorate of Education,  
Through its Director, Govt. (NCT) of Delhi  
Old Secretariat, Near Vidhan Sabha, Civil Lines,  
New Delhi, Delhi 110054.
2. Delhi Subordinate Services Selection Board,  
Through its Secretary FC-18,  
Institutional Area, Karkardooma, Delhi.

.....Respondents

**O R D E R (Oral)**

**Ms. Nita Chowdhury, Member (A):**

Heard learned counsel for the applicant at the admission stage.

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

“(i) Direct the Respondents to prepare a separate merit list (with separate cut-off marks) for persons with benchmark disability (PH Category) in compliance with Section 34 of the Rights of Persons with Disabilities Act, 2016 modifying the

results announced via notification dated 19.12.2018 (Annexure A-1) to the said extent;

- (ii) Direct the respondents to appoint the Applicant towards one of the notified vacancies if the Applicant is successful in the examination for PGT-Hindi (Male) (Post Code 110/17) in accordance with the merit list prepared for persons with disabilities in terms of Section 34 of the Rights of Persons with Disabilities Act, 2016 and issue joining letter to the Applicant for PGT-Hindi (Male) (Post Code 110/07) accordingly.
- (iii) to not carry forward vacancies for PGT-Hindi (Male) (Post Code 110/17) advertised in Advertisement Notice 04/2017 dated 20.12.2017 and the previous years in the cadre for person with disabilities (PH-Category) to the next year.
- (iv) Pass any such other or further order(s) as this Hon'ble Tribunal may deem fit and proper in the interest of justice and in favour of the Applicant."

3. Counsel for the applicant submitted that grievance of the applicant, who belongs to Disability category, in this case is that the respondents have not declared the separate cut off marks for PH category and there is a high probability that the applicant may be qualified to be appointed even on the present marks obtained under 4 percent reserved for the PH category. He further submitted that applicant along with other similarly situated candidates appeared for PGT-Hindi have filed a common representation in this regard on 26.12.2018 and when the same has not been replied to by the respondents, the applicant has filed this OA seeking the reliefs as quoted above.

4. Applicant has himself stated that he has earlier filed OA 325/2019, which was dismissed as withdrawn with liberty to the applicant to file fresh OA. However, it is admitted fact that the applicant had preferred his representation on 26.12.2018 (Annexure A9) and filed this OA on 31.1.2019 without waiting for the outcome of the aforesaid representation submitted by him along with other candidates, therefore, the present OA is pre-mature, as in terms of provisions of Section 20 of the Administrative Tribunals Act, 1985, the applicant has not exhausted other remedies available to him for redressal of his grievances. The said Section provides that :

**“20. Applications not to be admitted unless other remedies exhausted –**

(1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.

(2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances, -

(a) if a final order has been made by the Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance; or

(b) where no final order has been made by the Government or other authority or officer or other person competent to pass such order with regard to the appeal preferred or representation made by such person, if a period of six months from the

date on which such appeal was preferred or representation was made has expired.”

5. In view of the above facts and circumstances of this case, the present OA is dismissed as premature at the admission stage, as the applicant has not given sufficient time to the respondents for disposal of the said representation.

6. However, the applicant is directed to send a copy of this OA along with his representation dated 26.12.2018 to the competent authority within 15 days from the date of receipt of certified copy of this Order and the respondents are directed to consider the same and pass a reasoned and speaking order on the grievance of the applicant expeditiously before declaration of results of this examination.

**(S.N. Terdal)**  
**Member (J)**

**(Nita Chowdhury)**  
**Member (A)**

/ravi/