

**Central Administrative Tribunal
Principal Bench**

OA No.4405/2013

New Delhi, this the 27th day of March, 2019

**Hon'ble Sh. Justice L. Narasimha Reddy, Chairman
Hon'ble Mohd. Jamshed, Member (A)**

- (i) Laxmi, D/o Sh. Dwarika Mahato
R/o Sh. Dwarika Mahato
R/o E-1/23A, Laxmi Vihar
Prem Nagar Part-III
- (ii) Ms. Ruchi
D/o Sh. Vijay Kumar Singh
R/o E-397, Astha Kunj, SFS Flats
Rohini, Sector-18, Delhi-89. ...Applicants

(By Advocate: Shri Naresh Kaushik)

Vs.

- 1. Delhi Subordinate Services Selection Board
Through its Chairman
F-18, Karkardooma Institutional Area
- 2. Municipal Corporation of Delhi(North Zone)
Through its Commissioner
Town Hall, Delhi.
- 3. Govt. of NCT Delhi
Through its Chief Secretary
Delhi Secretariat
I.P. Estate, New Delhi.
- 4. South Delhi Municipal Corpn.
Dr. S.P.M. Civil Centre, Minto Road
New Delhi. ...Respondents

(By Advocates: Ms. Esha Mazumdar, Ms. Anupama Bansal and Shri R.K. Jain)

ORDER (ORAL)**Justice L. Narasimha Reddy:-**

Way back in the year 2008, the Govt. of National Capital Territory of Delhi (GNCTD) issued advertisement No.2/2008 inviting applications for various posts, including certain categories of teachers. Reservations are also provided in favour of different categories, such as SC/ST/OBC. The applicants herein claimed to be candidates belonging to ST category. They enclosed certificates issued by the concerned authorities from the States of Bihar and UP respectively.

2. The respondents refused to recognize the social status of the applicants on the ground that they are not natives of Delhi. There is no notification issued in respect of GNCTD under Article 342 of the Constitution. The applicants approached this Tribunal earlier by filing OA No.12/2010. The same was disposed of on 06.01.2010 directing the respondents to pass orders on the representations of the applicants therein. A detailed order dated 18.05.2010 was passed by the respondents stating that since there is no Presidential

Notification issued under Article 342 of the Constitution, in respect of Union Territory of Delhi, the candidature of the applicants cannot be considered under the ST category. The same is challenged in this OA.

3. The applicants contend that once a Notification is issued under Article 342, in respect of any part of India, the same must hold good for other places also, particularly in respect of Union Territory, as held by the Hon'ble Supreme Court in ***S. Pushpa & Ors. Vs. Sivachanmugavelu and Ors.*** (2005) 3 SCC 1. They also submit that the Hon'ble Supreme Court expressed its view in this behalf in several judgments, and the impugned order cannot be sustained in law.

4. The respondents filed a detailed counter affidavit opposing the OA. According to them, the social status of the applicants cannot be recognized in the absence of any Notification referable to the Union Territory of Delhi or GNCTD thereafter, under Article 342 of the Constitution. They submit that the judgment of the Hon'ble Supreme Court in *S. Pushpa's case*(supra) was explained in *Subhash Chandra v. DSSSB*, (2009) 11

SCALE 278 and that no exception can be taken to the impugned order.

5. We heard Shri Naresh Kaushik, learned counsel for the applicants and Ms. Esha Mazumdar, Ms. Anupama Bansal and Shri R.K. Jain, learned counsel for the respective respondents, in detail.

6. The question that arises for consideration in this OA is as to whether the status of ST conferred upon a candidate, on the basis of a certificate issued by the concerned authority from any other State, can be recognized in the GNCTD. It becomes relevant, particularly in the context of there not being any Notification under Article 342 referable to GNCTD or Union Territory of Delhi.

7. In S Pushpa's (supra), it was held that the certification in respect of a candidate from any State as an ST, would hold good for all Union Territories also. This included the GNCTD. Though in Subhash Chandra's case, it was observed that the direction issued in S. Pushpa's case cannot be treated as ratio, the matter ultimately came to be dealt with by a

Constitution Bench of the Supreme Court in ***Bir Singh v. Delhi Jal Board and Ors.*** AIR 2008 SC 4077. Their Lordships, in paragraph 61, held as under:-

“61. Accordingly, we answer the question referred in terms of the views expressed in para 34 of this opinion. We further hold that so far as the National Capital Territory of Delhi is concerned the pan India Reservation Rule in force is in accord with the constitutional scheme relating to services under the Union and the States/Union Territories.”

8. Though a bit earlier, in point of time, a Full Bench of Delhi High Court in ***Deepak Kumar & Ors. v. District and Sessions Judge & Ors.*** in W.P(C) No.5390/2010 dated 12.09.2012, expressed the same view.

9. In view of this development, the social status of the applicants as STs deserves to be accepted.

10. We, therefore, allow the OA and direct the respondents to consider the case of the applicants for appointment to the concerned post of Teacher by recognizing them as candidates belonging to ST category, subject to the certificates being found genuine and their fulfilling other conditions stipulated in

the Notification. The exercise shall be completed within a period of three months from the date of receipt of a copy of this order. No costs.

(Mohd. Jamshed)
Member(A)

(Justice L. Narasimha Reddy)
Chairman

/vb/