

**Central Administrative Tribunal
Principal Bench**

OA No.746/2019

New Delhi, this the 6th day of March, 2019

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

Soni,
D/o Sh. Rajbir,
Aged about 28 years,
R/o H.No.21, Sai Baba Enclave Part-6,
Behind Tehsil, Najafgarh,
New Delhi-110043.
Post : Teacher (Primary)
Post Code: 16/17 (New Post Code 1/18)
Group-B.

...Applicant

(By Advocate : Shri Anuj Aggarwal)

Versus

1. Delhi Subordinate Services Selection Board (DSSSB),
Through its Chairman,
Govt. of NCT of Delhi,
FC-18, Institutional Area,
Karkardooma, Delhi-110092.
2. The Director of Education,
Directorate of Education,
Govt. of NCT of Delhi,
Old Secretariat Building,
Civil Lines, Delhi-110054.

...Respondents

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :-

The first respondent issued advertisement No.02/17
on 07.08.2017, inviting applications for various posts in

the Delhi Administration. One such post is Primary Teacher in the MCD with Post Code 16/17. The applicant responded to the advertisement and submitted her application, indicating her social status as 'OBC'. The examination for the purpose of selection was held on 29.10.2017. However, that was cancelled on account of certain reasons. A second advertisement, with No.01/18 was issued on 26.06.2018 for the same post. It was mentioned that candidates who applied for the post earlier need not apply, and that they will be given one time age relaxation upto new cut of date.

2. However, the applicant submitted a fresh application in response to the second advertisement, stating to be in view of her marriage in the interregnum. She indicted her social status as 'Un Reserved' in this application. Written test was held on 14.10.2018 and the results were declared on 01.02.2019. The grievance of the applicant is that she is not being considered as an OBC candidate on account of the entries made by her in the second application form. Reliance is placed on the judgment of Hon'ble High Court of Rajasthan in ***Kavita Chaudhary Vs. Registrar (Examination)*** (Writ Petition No.1700/2017) dated 01.11.2017.

3. We heard Shri Anuj Aggarwal, learned counsel for the applicant at the admission stage.

4. The first advertisement was issued in the year 2017 and the applicant responded to the same. The social status of the applicant was mentioned as 'OBC'. On that basis, she was also issued an admit card and she participated in the written test. The examination was abandoned for the one reason or the other. A second advertisement was issued on 26.06.2018. A note, added to this advertisement, reads as under :-

"Note :- Candidates who have already applied for the post code 16/17 w.e.f. 25/8/2017 to 15/9/2017 need not apply again, they would be given One time age relaxation upto the new cut off date."

5. The applicant was entitled to take advantage of this note, and to participate in the examination without submitting a fresh application. However, she has chosen to file an application in response to this advertisement also. Had it been a case of repeating the contents of her earlier application and mere furnishing of the name of her husband, there would not have been any problem. However, she has chosen to indicate her social status as 'Un Reserved'. Since this happens to be an application in

response to the latest advertisement, the respondents were under obligation to take that into account.

6. It is not uncommon that the social status of an individual may undergo change or the candidate, holding a particular social status, may choose to give up claim for reservation . Nobody can question the exercise of such rights by a citizen. Having indicated that she is an Unreserved candidate, the applicant cannot turn around and plead that she deserves to be treated as OBC candidate. If at all, anyone, it is the applicant, who is to be squarely blamed for present state of affairs.

7. In the judgment relied upon by the applicant, a distinction was made between the mistake that would not affect the third party rights and the one which affects the third party rights. In the context of issuance of a Caste Certificate to an individual, there may not be any possibility of third party rights being affected. However, where the social status is under consideration, in the context of competitive selection, it does affect the third party rights.

8. We do not find any merit in the OA and the same is accordingly dismissed.

There shall be no order as to costs.

(Mohd. Jamshed) **(Justice L. Narasimha Reddy)**
Member (A) **Chairman**

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