

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

OA 913/2016  
MA 890/2016  
MA 4305/2018

Reserved on 03.07.2019  
Pronounced on 30.07.2019

**Hon'ble Mr. S.N.Terdal, Member (J)**  
**Hon'ble Mr. A.K.Bishnoi, Member (A)**

1. Dinesh,  
S/o Sh. Raghbir,  
R/o H.No.302, Village Bajit Pur  
Thakran, Delhi-110039 and  
Permanent resident of V&PO  
Alawalpur, Tehsil & District Palwal,  
Haryana-121 102
2. Satya Narayan Arya,  
S/o Sh. Rooram Ram Arya,  
R/o H.No. C-8/188 Sultanpuri,  
New Delhi-110086 and permanent  
Resident of V&PO Basai (Khohar)  
Via Gandala, Tehsil Behror,  
Distt. Alwar, Rajasthan-301709
3. Sanjay Kumar,  
S/o Sh.Ishwar Singh,  
R/o H.No. 247, V&PO Kanjhawala,  
Delhi-110081 and permanent resident  
of V&PO Chhapra, Tehsil Gohana,  
District Sonapat, Haryana 131304
4. Jitender Singh  
S/o Sh. Shiv Charan,  
R/o H.No. 1145, Gali No.9,  
Lakhpur Colony, Part-2, Meethapur Extn.,  
Badarpur, New Delhi-110044; and  
Permanent R/o V&PO Alawalpur, Tehsil  
& District Palwal, Haryana-121102.
5. Suresh Kumar Bairwa,  
S/o Sh. Gopi Lal Bairwa,  
R/o Plot No. 152, Gali No. 3,  
Manglapuri-1, New Delhi-110042  
And permanent resident of Village  
Bheepura Post Office Thadoli,  
Tehsil Bonli District Sawai Madhopur  
(Rajasthan)-322023
6. Tulsi Ram,  
S/o Sh. Sukh Ram,  
R/o H.No.RZJ-19/261, West Sagar Pur,  
New Delhi-110046 and permanent

Resident of H.No.K-258/4, Krishna Colony,  
Railway Road, Ward No. 4, Palwal,  
District Palwal, Haryana-121102.

... Applicants

(By Advocate: Shri Ajit Kumar Ekka with Sh.K.S.Chauhan  
Sh. Murari Lal, Sh. S.P.Singh and Sh. S.M.Kalky)

### **VERSUS**

1. Govt. of NCT of Delhi,  
Through its Chief Secretary,  
New Secretariat, IP Estate,  
New Delhi-110002
2. Delhi Subordinate Services Selection  
Board (DSSSB), through its Chairman,  
FC-18, Institutional Area, Karkardooma,  
(Near railway reservation center)  
Delhi-110092
3. North Municipal Corporation of Delhi  
Through its Commissioner,  
Dr.S.P.M. Civic Centre,  
Minto Road, New Delhi-110002
4. South Municipal Corporation of Delhi  
Through its Commissioner,  
Dr.S.P.M. Civic Centre,  
Minto Road, New Delhi-110002
5. East Municipal Corporation of Delhi  
Through its Commissioner,  
419, Udyog Sadan, Patparganj,  
Industrial Area, New Delhi-110 096.

.. Respondents

(By Advocate: Ms. Purnima Maheshwari for R-1 and 2,  
Ms. Anupama Bansal for R-3 and  
Shri R.K.Jain for R.No.4 )

### **ORDER**

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

We have heard Mr. Ajit Kumar Ekka with Sh. K.S. Chauhan, counsel for applicants and Ms. Purnima Maheshwari, Ms. Anupama Bansal and Shri R.K.Jain, counsel for respondents, perused the pleadings and all the documents produced by all the parties.

2. In this OA, the applicants have prayed for the following reliefs:

- “(a) Summon the original records of the case;
- (b) Pass an appropriate order, direction or writ in the nature of certiorari or any other appropriate writ, quashing order dated 19.05.2014 (Annexure A-1) and consequently order dated 21.01.2013 be set aside, in the interest of justice and in the facts and circumstances of the preset case; and consequently,
- (c) Pass an appropriate order, direction or writ in the nature of mandamus or any other appropriate writ, directing the respondents to appoint the humble applicants in terms of their merit in the select list by setting aside order dated 19.05.2014 (AnnexureA-1) in the interest of justice and in the facts and circumstances of the present case; and
- (d) Pass such other further order(s) as this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the present case.”

3. The relevant facts of the case are that the applicants belong to Scheduled Caste (SC) category. They had applied for the post of Teacher (Primary) in Municipal Corporation of Delhi (MCD) which was advertised under the advertisement no.02/2008. But they were SC from outside Delhi and had applied for the posts reserved for SCs. In the selection process though 150 posts were reserved for SCs, out of the total vacancies of 1000 posts, they were not considered against the reserved category of SC as they were SCs from outside Delhi and they were considered against the posts meant for general category and as the cut off for the general category was high they were not selected. The applicants claiming that though they were SCs from outside Delhi and that as Delhi being Union Territory they should have been considered against the reserved quota meant for SCs. On the basis of the above claim, they had filed OA No. 761/2013 and OA 769/2013. In the said OAs on 6.11.2013, the respondent-DSSSB was directed to re-examine the

claim of the applicants. The relevant portion of the order is extracted below:-

"In view of the aforementioned, we dispose of these Original Applications with a direction to the respondent- Delhi Subordinate Services Selection Board to re-examine the claim of the applicants in view of the directions contained in paragraph 66 of the judgment of Full Bench of Hon'ble High Court of Delhi in Deepak Kumar's case. It goes without saying that the action to be taken by the respondents would be subject to the outcome of the view to be taken by the Hon'ble Supreme Court in Sandeep Kumar's case (supra) and the clarification of the judgment in the case of Deepak Kumar by the Hon'ble High Court of Delhi, if any. No cost."

In compliance with the above said order dated 06.11.2013 and another earlier order dated 7.12.2012 passed in OA No.1516/2011 etc. and also basing on judgment of the Hon'ble High Court in the case of **Ravindra Devi Vs. GNCT of Delhi & Ors** in Writ Petition (C) No. 3049/2012, the claim of the applicants was rejected, by the impugned orders dated 21.01.2013 and 19.05.2014.

4. The counsel for the applicants vehemently and strenuously contended that in view of the law laid down in para 61 of the judgment of the Hon'ble Supreme Court in the recent case of **Bir Singh Vs. Delhi Jal Board and Ors**, reported in JT 2018(8) SC 463) it is crystal clear and the issue is finally settled that SC category candidates are entitled to pan India reservation in accordance with the constitutional Scheme relating to services under the Union and the Union Territories in so far as NCT of Delhi is concerned. The said para 61 is extracted below:-

"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."

He further contended that as per the result notice no 46 the last selected candidate in the SC category had secured only 94 marks, whereas admittedly the applicants had secured more than 100 marks and he further contended that though 150 vacancies were ear-marked for the SC category only 93 posts were filled up and that in view of the law laid down by the Hon'ble Supreme Court in the case of Bir Singh (supra) they are entitled to be considered under the vacancies meant for SC category.

5. The counsel for the respondents equally vehemently and strenuously contended that the recruitment process was started in the year 2008 & that now they are no vacancies available and as per the law laid down by various High Courts and Hon'ble Supreme Court and thus operating during the intervening period, the applicants being SC from outside Delhi were not entitled to be considered against the vacancies meant for SC under the respondents and hence the impugned orders do not require to be interfered with and the applicants are not entitled for any relief. From the perusal of record and even from the perusal of the impugned orders it is clear that the applicants are not fence-sitters, they have been agitating about their grievance diligently right from the beginning as such the contention of the counsel for the respondents does not hold good.

6. Thus, in view of the law laid down by the Hon'ble Supreme Court and in view of the facts narrated above, this OA requires to be allowed. Accordingly, the OA is allowed and the impugned six orders dated 21.01.2013 (which is collectively produced as Annexure A-7(Colly)) and order dated 19.05.2014 produced as Annexure A-1 are set aside. The respondents are directed to appoint the applicants against unfilled reserved vacancies meant for the category of SC as recorded in the result

notice no. 46 dated 06.10.2009 with all consequential benefits, but however, the applicants are not entitled for any back wages. MAs pending, if any, stand disposed of. The respondents are directed to comply with the above directions within a period of three months from the date of receipt of copy of this order. No order as to costs.

**(A.K.Bishnoi)**  
**Member (A)**

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

'sk'

...