

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 1815/2017

Reserved on: 28.08.2019

Pronounced on: 04.09.2019

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

Neeru, Age-33 years,
D/o Shri Om Prakash
W/o Sh. Sunil,
R/o GF-224, Pocket-9,
Sector-21, Rohini, Delhi-110086.

.... Applicant

(By Advocate: Mr. Sandeep Kaushik with Yogesh Mahur)

VERSUS

Govt.of NCT of Delhi, through:

1. Lt. Governor of Delhi,
Raj Niwas, Delhi.
2. The Secretary,
Delhi Subordinate Services Selection Board,
(DSSSB) FC-18, Institutional Area,
Karkardooma, Delhi-110092.
3. Deputy Commissioner Office,
North West District,
Kanjhawala, Delhi.

... Respondents

(By Advocate: Ms. P.K.Gupta)

ORDER

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

We have heard Mr. Sandeep Kaushik, counsel for applicant and Ms. P.K.Gupta, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. In this OA, the applicant has prayed for the following reliefs:

- “(i) To declare the candidature of the applicant in post no. 68/10 of the Respondent No. 2 in the OBC category.
- (ii) To declare the selection of the applicant according to the list declared under the OBC category.

- (iii) To award exemplary costs in favour of the applicant.
- (iv) To pass such other and further orders which their lordships of this Hon'ble Tribunal deem fit and proper in the existing facts and circumstances of the case."

3. The relevant facts of the case are that the applicant applied for the post of Assistant Teacher (Nursery) with post code-068/2010 against the advertisement No. 02/2010 issued by the respondent-Delhi Subordinate Services Selection Board (DSSSB) in the year 2010. At the time of filling up of her application, the applicant left the column concerning category as blank without mentioning against which category she is applying for the post, as such she was considered against the general category. In the examination conducted, she secured 106.50 marks and the last candidate selected under the general category has secured 110.50 marks as such she was not selected. The claim of the applicant is that in fact she belongs to OBC category and she should have been considered against the OBC (Delhi) category and that by mistake she could not mention her category in the application form. The counsel for the applicant vehemently and strenuously submitted that it is a minor mistake and by oversight and by inadvertently she forgot to mention her category in the application form but in reality she belongs to OBC (Delhi) category as such she should have been considered by the respondents under OBC category and in support of his contention he relied upon the following judgments:

- (1) **Gyanendra Singh Vs. Commissioner of Police & Ors.** (OA 1482/2011- CAT (PB))
- (2) High Court of Judicature for Rajasthan at Jodhpur-DB Civil Writ Petition No. 692/2017-**Neetu Harsh Vs. The State of Rajasthan Through the Secretary, Department of Law & Legal Affairs and Ors.**

- (3) High Court of Judicature at Allahabad -Writ-A No.- 17398 of 2018- **Km. Rajnish Yadav Vs. State of U.P. and 2 Ors.**

4. The respondents in the counter reply affidavit relied upon the law laid down by the Hon'ble Supreme Court in the case of **State of Tamil Nadu & Ors Vs. St. Joseph Teachers Training Institute & Anr.** (1991) 3 SCC 87) and Delhi High Court in **Aruna Meena Vs. Union of India and Anr.** to support their contention that the applicant ought to have been vigilant while filling up the application form and she had failed to do so, as such no indulgence can be granted to them on any sympathetic consideration. The relevant portion of the counter reply is extracted below:

- "5. In the matter of Devender Yadav & Ors Vs. DSSSB & Ors., in OA No.4572/2014, the Hon'ble CAT has observed as under:-

"22. We are in respectful agreement with the Division Bench judgment of Hon'ble Delhi High Court in Aruna Meena Vs. Union of India and Anr. (supra), and we are bound by it, as well as the Single Bench judgment of the Hon'ble Rajasthan High Court in Manoj Kumar (supra) and are, therefore, as a result, unable to follow the Coordinate Bench judgment in Neha Nagar vs. DSSSB & Ors (supra) and other related cases. The applicants ought to have been vigilant while filling up their application forms, and when they had failed to do so, no indulgence can be granted to them on any sympathetic considerations. The Hon'ble Apex Court has also in the case of **State of Tamil Nadu & Ors Vs. St. Joseph Teachers Training Institute & Anr.**(1991) 3 SCC 87: JT 1991(2) SC 343, held that mere humanitarian grounds cannot form the basis for granting reliefs against the settled propositions of law, or contrary to law, and when an instruction or yardstick prescribed in the concerned advertisement has been applied uniformly in the case of all other candidates, the three applicants before us cannot claim to be provided with a more favourable consideration than others have been provided by the respondents".

5. In the facts and circumstances narrated above and in view of the law laid down by the Hon'ble Supreme Court in **St. Joseph Teachers Training Institute & Anr.** case (supra), we are of the view that the action of the respondents cannot be interfered with.

6. Accordingly, the OA is dismissed. No order as to costs.

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

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

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