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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O.A. NO.1218/2003

This the 24th day of October, 2003

HON'BLE SHRI V.K.MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

1. Mukesh Kumar Sharma
2. Sarwan Kumar

Both C/O Mukesh Kumar Sharma  
S/O Shri Sampat Ram Sharma,  
R/O 130, New Lahore, Shastri Nagar,  
Delhi-110031.

... Applicants

( None present )

-versus-

1. Chairman,  
Delhi Subordinate Services Selection Board,  
Govt. of NCT of Delhi,  
UTCS Building behind Karkardooma  
Court Complex, Shahdara,  
Delhi-110032.

2. Secretary,  
Govt. of NCT of Delhi,  
Deptt. of Health & Family Welfare,  
9th Floor, I.P. Sachivalaya,  
New Delhi.

... Respondents

( By Shri Vijay Pandita, Advocate )

O R D E R (ORAL)

Hon'ble Shri V.K.Majotra, V.C.(A) :

As none appeared on behalf of applicants despite revised call, we proceeded to dispose of this matter in terms of rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987 by considering the respective pleadings of the parties, material on record and hearing the learned counsel of respondents.

2. Applicants had applied for the post of Telephone Operators in response to an advertisement

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dated 1.3.1999 of the respondents inviting applications for the said post in the Department of Health & Family Welfare, Government of N.C.T. of Delhi. Applicants appeared in the written test, were declared successful vide respondents' letter dated 29.5.2000 and were called for interview on 20.6.2000. During the interview, applicants, amongst some other candidates, were informed that certificates regarding their Telephone Operator's course were from Sarvodaya Institute of Education which is not a recognised institute and that they should submit the certificate from a recognised institute within three days failing which their candidature would be cancelled. Applicants failed to submit the certificate from a recognised institute sought for by the respondents. Applicants have relied on decision of this Tribunal in the case of **Manoj Kumar & Ors. v. Chairman, DSSSB & Anr.** (OA No.281/2001) decided on 7.11.2001 contending that on parity of claims they should also be considered being eligible for the post. Applicants have sought a direction to respondents to consider them for appointment as Telephone Operators being similarly situate as the applicants in OA No.281/2001.

3. At the outset, the learned counsel of respondents raised an objection that while the results relating to the selection in question were published on 14.12.2000 and the alleged similar OA No.281/2001 was allowed by this Court on 7.11.2001, applicants have filed the present OA on 9.5.2003, i.e., much beyond the permissible limitation period and, as such, it is time barred. The learned counsel further pointed out that

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applicants have not filed any application for condonation of delay. We find that no application for condonation of delay has been filed on behalf of applicants. In the rejoinder, applicants have merely stated that they "came to know about passing of the judgment in OA No.281/2001 dated 7.11.2001 only in April, 2003." It has also been stated that they have filed an application for condonation of delay. We find from the records that while applicants have filed MA No.1083/2003 for joining together, no application has been made on behalf of applicants seeking condonation of delay. In this background, the matter is certainly time barred. However, this OA must fail even on merits as discussed below.

4. OA No.281/2001 was allowed on 7.11.2001 (Annexure A-3) with the following directions :

"12. Under the circumstances respondents are directed

- i) to consider the claim of applicants for appointment as Telephone Operator pursuant to the selection in question against the available vacancies, subject to their securing a position in the merit list, and fulfilling other prescribed qualifications. Respondents shall pass a speaking order in this regard in accordance with rules and instructions within 2 months from the date of receipt of a copy of this order.
- ii) to consider issuing a list of institutions recognised by the competent authority for the purpose of the recruitment rules.

13. The OA succeeds and is allowed to the extent contained in para 12 above. No costs."

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5. In the above directions issued by the Tribunal, respondents were directed to accept the claim of the applicants only if they secured a position in the merit list and also fulfilled other prescribed qualifications. It has been stated on behalf of respondents that the marks obtained by both the applicants were found to be fewer than those secured by the last selected candidate. While the last selected candidate obtained 72 marks under unreserved category, applicant No.1 and applicant No.2 who also belong to unreserved category, obtained 64 and 71 marks respectively. <sup>u</sup> as per directions made in OA No.281/2001, applicants therein were given relief subject to their securing a position in the merit list. Applicants in their rejoinder have not rebutted this assertion that marks secured by them were fewer than those of the last selected candidate. It has only been stated that respondents have admitted that the prescribed certificate from a recognised institute had not been submitted by applicants. In our view, even if weightage is given to this contention of applicants, they have not secured a position in the merit list in terms of the directions contained in the Tribunal's orders in OA No.281/2001. Thus, this OA must fail on merit as well.

6. Having regard to the facts and circumstances of the case and respondents as discussed above, this OA fails and is dismissed accordingly. No costs.

S. Raju

( Shanker Raju )  
Member (J)

V. K. Maiotra

( V. K. Maiotra )  
Vice-Chairman (A)

/as/