

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA NO. 3214/2019

New Delhi, this the 05th day of November, 2019

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A.K. Bishnoi, Member (A)

Ashish Rana, age – 33, Group-B
S/o Sh. Purushottam Rana
R/o House No. 10,
Village Siraspur, Delhi-110042.

...Applicant

(through Sh. K.P. Sunder Rao)

Versus

1. Government of NCT of Delhi
Through Secretary
Department of Education
Delhi Secretariat
Near I.G. Stadium, ITO
New Delhi-110002.

2. Directorate of Education
GNCTD
Old Secretariat
Near Vidhan Sabha, Civil Lines
Delhi-110054.

...Respondents

(through Ms. Esha Mazumdar)

ORDER(ORAL)

Mr. Justice L. Narasimha Reddy

The applicant is now working as Trained Graduate Teacher in the Delhi Administration. The Directorate of Education initiated steps for appointment to the post of Assistant Section Officers. The applicant responded to the same and was also selected. He was issued an offer of appointment on 09.05.2019 and was required to submit the relevant documents and to reply to some of the queries in the forms. The applicant replied that a case under section 498A is registered against him at the instance of his wife. The respondents, in turn, called for a report from the concerned Police Station and passed an order dated 23.08.2019, keeping the offer of appointment in abeyance. The same is challenged in this OA.

2. The learned counsel for the applicant contends that his client has been selected and that mere registering of a case under Section 498A cannot be treated as an impediment for appointing a selected candidate. Reliance is placed upon the judgment of Hon'ble Supreme Court in the case of *Preeti Gupta and Anr. vs. State of Jharkhand and Anr. 2010 (8) SCALE 131*. It is also stated that the representation made by him, in this regard, was not considered at all.

3. We heard Sh. K.P. Sunder Rao, learned counsel for the applicant and Ms. Esha Mazumdar, learned counsel for the respondents, at the stage of admission.

4. It is not in dispute that the applicant was selected for the post of Assistant Section Officer in Level 7 of Pay Matrix. An offer of appointment was issued through memorandum dated 09.05.2019. The candidates are required to furnish certain documents as well as information. The applicant stated that a case, referable to Section 498A, is pending against him on the basis of a complaint submitted by his wife. Maybe, to be on the safe side, the respondents called for the report from the concerned Police Station. The report revealed that a case was registered against the applicant and his parents by invoking Section 498A and 34 of the IPC. It was also stated that the applicant was granted anticipatory bail by the High Court.

5. The question as to whether mere pendency of a case, that too under Section 498A, would be a ground to deny appointment to a candidate, was examined by the Hon'ble Supreme Court in the case of **Preeti Gupta** (supra). It was held that mere pendency of a case cannot be treated as an impediment. The manner in which the complaints under Section 498A are being made and the

repercussions thereof were discussed. In other judgments also, similar view was taken. The respondents need to take note of those judgments before they take a decision on the offer of appointment made to the applicant. On the issuance of an offer of appointment, valuable rights accrue to the applicant and they cannot be taken away without proper basis. We, therefore, dispose of the OA directing that;

- (a) The applicant shall place the relevant judgments, together with a copy of representation and this order before the respondents within a period of one week from today.
- (b) The respondents shall pass appropriate orders within two weeks thereafter.

There shall be no order as to costs.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/ns/