

Sumit Kuamr Vs Govt. Of NCT Of Delhi Through Its Chief Secretary A-Wing, 5th Floor, Delhi Secretariat, IP Estate, New Delhi & Others

Court: Central Administrative Tribunal Principal Bench, New Delhi

Date of Decision: Jan. 9, 2025

Hon'ble Judges: Manish Garg, Member (J); Dr. Anand S Khati, Member (A)

Bench: Division Bench

Advocate: Anoop Kumar, U Srivastava, Girish C Jha, Anupama Bansal

Final Decision: Dismissed

Judgement

Manish Garg, Member (J)

1. In the present Original Application, the applicant has prayed for the following reliefs:-

Ã¢â‚¬Å“(a) Directing the respondents to place the relevant records pertaining to the present petition before their lordships for the proper

adjudication in the matter.

b) Quash and setting aside the online information dt. 05.02.19 (Annexure A/1) rejecting the candidature of the applicant for recruitment to

the post code 16/17 (01/18) Teacher (Primary) in MCD with the contentions that the OMR of the applicant has not been evaluated due to

wrong Roll no./Other details further,

c) Directing the respondents to re-examine the OMR of the applicant and proceed further for recruitment to the post code 16/17 (01/18)

Teacher (Primary) in MCD accordingly in case the applicant qualify the same.

d) Allowing the OA of the applicant with all other consequential benefits and cost.

e) Any other fit and proper relief may also be granted.Ã¢â‚¬Å“

2. Brief facts of the case as narrated by learned counsel for the applicant are as under:-

The applicant who belongs to OBC category, being fully eligible applied for the Advertisement No. 02/17 notified by DSSSB for recruitment to the

different posts including the Vacancies of Teacher (Primary) in MCD, the opening date for online applications was 25.08.2017 & closing date was

15.09.2017. Thereafter, on 24.08.2017, the aforesaid advertisement was withdrawn by the respondents. On 26.06.2018, the respondents notified an

advertisement No. 01/18 for recruitment to the posts of Teacher (Primary) in Supersession of the vacancy notice for the post code 16/17, Teacher

(Primary) in MCD for which the opening date for online applications was 02.07.2018 & closing date was 30.07.2018. The examination was held on

30.09.2018 for the post of Teacher (Primary) Post Code 16/17 for which the applicant was allotted Roll No. 2800021852 and admit card was issued to

him for appearing in the examination. Subsequently, he appeared for the said examination and on 05.02.2019, he was informed that 'Your OMR was

not evaluated due to wrong Roll No/Other details'. Since then he has been approaching to the respondents to know the specific and very categorical

discrepancy in his OMR but there is no response forthcoming from them. Hence, the present OA.

2.2 In support of his contentions, learned counsel for the applicant relies upon the following case laws:-

(i) OA No.3057/2017, titled Sumit Bhardwaj & ors.Vs. Uol & Ors. decided on 10.08.2018;

(ii) W.P.(C) No. 640/2015, titled DSSSB vs. Neeta dated 26.08.2015

(iii) W.P. (C) No.5777/2018, titled Govt of NCT of Delhi and anr. vs. Preeti Sharma and anr. dated 08.03.2019.

3. Opposing the grant of relief, learned counsel for the respondents reiterates the averments made in the counter affidavit filed on behalf of the

respondent Nos. 1 and 2. Relevant para of the same reads as under:-

4.6. It is submitted that in the instructions mentioned at serial no.5 of the question booklet wherein it was clearly mentioned

that "OMR Answer sheet is enclosed as in this Booklet. You must complete the details of Roll Number, Question Booklet No. etc. on the

Answer Sheet and Answer Sheet No. on the space provided above this question Booklet, before you actually start answering the questions,

failing which your answer-sheet will not be evaluated and you will be awarded 'ZERO' marks".

It is also submitted that at serial no.17 of question booklet, it is also mentioned that "A machine will read the coded information in the OMR

Answer-Sheet. In case the information is incomplete/different from the information given in Application form, the candidature of such

candidate will be treated as Cancelled".

Further, instruction mentioned at serial no.6 of the back side of the OMR Answer sheet that "the appropriate circle should be shaded for

Roll No., Gender, Community, Question Booklet No., Booklet Series and Preference of Post Codes applied for etc. This should be done

carefully because only the shaded circle are Scanned.

3.1 Learned counsel for the respondents further relies upon the decision rendered in OA No. 2949/2019, titled Neetu Yadav vs. DSSSB & Ors. dated

11.10.2019.

4. We have heard learned counsel for both the parties and perused the materials available on record.

5. ANALYSIS

5.1 We have carefully gone through the decisions as cited hereinabove by the learned counsel for the applicant. It is observed that in OA

No.3057/2017 titled Sumit Bhardwaj & ors. Vs. UoI & Ors. decided on 10.08.2018, the issue pertained to the Tier 3 papers of the applicants therein

that the same have not been evaluated on the grounds that they have either not filled or incorrectly filled medium/language/ticket number. It is also

seen that rectification was allowed to the applicants therein. In W.P.(C) No. 640/2015, titled DSSSB vs. Neeta dated 26.08.2015, the applicant(s)

therein did not fill up column 11 which is with regard to post code. In W.P. (C) No.5777/2018, titled Govt of NCT of Delhi and anr. vs. Preeti

Sharma and anr. dated 08.03.2019, the applicant therein had acquired the said qualification before the cut-off date. However, while filing -up the

OMR Form, on account of human error, she did not color the bubble on the form and she was declared ineligible.

5.2 In Civil Appeal No. 4807 Of 2022 (Arising Out Of SLP (Civil) No. 19886 Of 2019) Union Of India & Ors. Versus Mahendra Singh decided on

25.05.2022, the Hon'ble Apex Court observed as under:-

“It is well settled that if a particular procedure in filling up the application form is prescribed, the application form should be filled up

following that procedure alone. This was enunciated by Privy Council in the Nazir Ahmad v. King Emperor, wherein it was held that “that

where a power is given to do a certain thing in a certain way the thing must be done in that way or not at all. Other methods of performance

are necessarily forbidden.”

15. A three Judge Bench of this Court in a judgment reported as Chandra Kishore Jha v. Mahavir Prasad & Ors., held as under:

“17.....It is a well-settled salutary principle that if a statute provides for a thing to be done in a particular manner, then it has to

be done in that manner and in no other manner. (See with advantage: Nazir Ahmad v. King Emperor [(1935- 36) 63 IA 372 : AIR 1936 PC

253 (II)], Rao Shiv Bahadur Singh v. State of V.P. [AIR 1954 SC 322 : 1954 SCR 1098], State of U.P. v. Singhara Singh [AIR 1964 SC 358

: (1964) 1 SCWR 57] .) An election petition under the rules could only have been presented in the open court up to 16-5- 1995 till 4.15 p.m.

(working hours of the Court) in the manner prescribed by Rule 6 (supra) either to the Judge or the Bench as the case may be to save the

period of limitation. That, however, was not done “

16. The said principle has been followed by this Court in Cherukuri Mani v. Chief Secretary, Government of Andhra Pradesh & Ors.

wherein this Court held as under: “14. Where the law prescribes a thing to be done in a particular manner following a particular

procedure, it shall be done in the same manner following the provisions of law, without deviating from the prescribed procedure.....”

1936 SCC OnLine PC 41 10 (1999) 8 SCC 266 11 (2015) 13 SCC 722 9

17. Similarly, this Court in Municipal Corporation of Greater Mumbai (MCGM) v. Abhilash Lal & Ors. and OPTO Circuit India Limited v.

Axis Bank & Ors. has followed the said principle. Since the advertisement contemplated the manner of filling up of the application form and

also the attempting of the answer sheets, it has to be done in the manner so prescribed. Therefore, the reasoning given by the Division

Bench of the High Court that on account of lapse of time, the writ petitioner might have attempted the answer sheet in a different language

is not justified as the use of different language itself disentitles the writ petitioner from any indulgence in exercise of the power of judicial

review.

18. Since the writ petitioner has used different language for filling up of the application form and the OMR answer book, therefore, his

candidature was rightly rejected by the appellants.

6. Conclusion

In view of the decision rendered in the case of Mahendra Singh (supra) coupled with the decision rendered in OA No. 2949/2019, titled Neetu

Yadav vs. DSSSB & Ors. decided on 11.10.2019, we do not find any infirmity in the action of the respondents in rejecting the candidature of the

applicant. Accordingly, the OA is dismissed. Pending MAs, if any, shall also stand disposed of accordingly. No Costs.