

Ramavtar Dhobi Vs NCT Of Delhi & Ors.

Court: Central Administrative Tribunal Principal Bench, New Delhi

Date of Decision: Jan. 31, 2025

Hon'ble Judges: Harvinder Kaur Oberoi, Member (J); Dr. Sumeet Jerath, Member (A)

Bench: Division Bench

Advocate: Ajesh Luthra, Anuj Kumar Sharma

Final Decision: Allowed

Judgement

Dr. Sumeet Jerath, Member (A)

1. The instant OA has been preferred by the applicant Mr. Ramavtar Dhobi seeking the following reliefs :-

8. a) Direct the respondents to allow the applicant to submit his documents for document verification and accept the same and

b) Direct the respondents to further consider and appoint the applicant to the post of TGT (English) (Male) (Post Code 131/17)

c) Accord all consequential benefits including monetary and seniority benefits.

d) Award costs of the proceedings; and

e) Pass any other order/direction which this Hon'ble Tribunal deem fit and proper in favour of the applicant and against the respondents in

the facts and circumstances of the case.

2. The factual matrix of the case as per the counsel of the applicant is that in response to an advertisement bearing no. 4/17 issued by the respondents

to fill up various posts of TGT (English) (Male) (Post Code 131/17), the applicant being fully eligible, applied under SC Category for the same. He

participated in the written examination conducted on 02.09.2018. Though vide result declared in the website of the respondents in January 2019, he

was shortlisted with 81 marks and was required to submit his documents through e-dossier module, however, due to his illness he failed to access their

website and missed to submit his documents within the prescribed time limit.

Aggrieved, he submitted his grievance through PGMS portal and sought opportunity to submit his documents for document verification. In the

advertisement, there was no mention that the results would be declared online and that the candidates would be required to submit their documents by

way of e-dossier in the module. When the applicant learnt that the respondents were in the process of issuing final result excluding him which would

be highly prejudicial to him, he filed the present OA.

3. The counsel of the applicant argued on the following grounds:-

Ã¢â¬Å(i) The respondents, too, are aware of the said fact situation. Therefore, they had obtained the e-mail ids and mobile numbers of the candidates for

informing them individually by electronic modes. As a matter of fact, other candidates were informed by e-mail and SMS. However, no individual

specific information was sent to the applicant. Hence, the applicant has been deprived of the opportunity of participation in the document verification

process. The applicant, upon coming to know of the document verification process, represented the Board for his participation. The representations

have not been responded to.

(ii) The DSSSB had categorically mentioned in result notice dated 30/01/2019 that the qualified candidates are being informed separately for uploading

of their requisite documents. No separate information in either mode like SMS, e-mail or a postal communication as sent to others, has been received

by the applicant.

(iii) The DSSSB has allowed candidates to cure the deficiency and complete their documents in the e-dossier, subsequent to closure of link earlier.

Likewise, applicant whose e-dossier link closed due to lack of information from DSSSB, ought to have been granted atleast one opportunity to upload

his e-dossier.

(iv) The vacancies are now being filled up by candidates having lessor merit than the applicant.

(v) In an identical situation, OA's No 4042/2017 659/2018, 963/2109 and 1018/2019 titled Manisha vs GNCTD & Ors, & Sunita Kumari Vs GNCTD

& Ors, this Hon'ble Tribunal has been pleased to direct the respondents to accept the documents of the applicant in hardcopy. Copies of orders dated

29/10/2018, 27/11/2018, 26/03/2019 and 29/03/2019.

(vi) In a similar circumstance in OA No. 757/2019, titled Priyanka Sharma Vs. GNCT & Others vide interim order dated 07.03.2019 this Hon'ble

Tribunal directed consideration of applicant therein for appointment. Similar interim direction has been issued in OA No. 638/2019.

4. He also relied on the following decisions of the Coordinate Bench of CAT in :-

(i) Decision of CAT, PB in OA No. 1923/2019 dated 17.05.2023

(ii) Decision of CAT, PB in OA No. 4163/2017 dated 27.05.2024.

5. The counsel of the respondents countered the above arguments using the following grounds from their counter affidavit :-

The applicant herein has come up with a totally wrong premise that the Respondent Board was under obligation to furnish information to him

through e-mail and SMS, in spite of the fact that these facilities are only additional ones that are provided to the candidates and despite the same a

copy of the report from the IT Department is enclosed showing that the e-mail sent to the candidate have not bounced back (Annexure R-1). Further,

all the details including marks etc. as is being placed on record by the applicant herein are reflected in the individual OARS log-in account which can

only be accessed by the candidates through their respective passwords. All the candidates have been instructed time and again that they should

frequently visit their OARS module so as to remain apprised with the latest developments, especially so the same becomes incumbent upon the

candidate after declaration of the results which are notified on the website of the Board. The applicant cannot be allowed to shift his burden/onus upon

the respondent Board by making frivolous claims without making any efforts on his end to check the results and the directions issued in his Individual

OARS portal from time to time by the Respondent Board. The stand taken by the applicant herein has become infructuous in view of the judgements

passed by this Ld. Tribunal that have been upheld by the Hon'ble High Court of Delhi in WP(C) No. 4085/2019 and R.W. C.M. No.18419/2019 in the

matter titled Ms. Jyoti Vs. Govt. of NCT of Delhi and Another vide orders dated 22.4.2019 and thus the application is infructuous and is liable to be

dismissed. Para 12 of the decision of PB, CAT in OA No.1923/2019 dated 17.05.2023 reads as under :-

“12. The counsel for the Respondents cit cited the Order dated 22.4.2019 in Jyoti V/s GNCTD & Ans wherein the division bench of Delhi

High Court held that:

The Tribunal has found and we agree with the said findings, that if the petitioner is permitted to upload her e dossier after the closing of

the scheduled period, the same would amount to discrimination against others, who may have similarly not been able to upload their e

dossiers by the notified date....Merely because the petitioner claims that she was pregnant or Out of town is no ground for extension of time

as the selection process which is undertaken on a very large scale, cannot be delayed or withheld on account of the circumstances of a

particular candidate.

He also relied on the judgment of Hon'ble Delhi High Court in WP (C) No. 2892/2019 dated 23.05.2019 dated 25.03.2019 in P ushpinder Singh

Parnami vs. DSSSB wherein it was held as follows :-

“At the outset, we notice that the petitioner has not produced on record the detailed order passed by the Tribunal on 18.02.2019. The

impugned order placed on record, merely states ""dismissed at the admission stage itself. Detailed order typed separately"".

Counsel for the respondent, who appears on advance notice tenders in Court a copy of the detailed order dated 18.02.2019 passed by the

Central Administrative Tribunal, New Delhi in ÎŸ.ÎŸ.ÎŸ.549/2019 preferred by the petitioner. The same is taken on record.

The petitioner, who is a scheduled caste candidate, participated in the written examination held by the Delhi Subordinate Services Selection

Board (DSSSB) for the post of PGT(History). He was declared successful in the result, which was displayed on the website of the DSSSB.

The petitioner, however, did not respond to the said notification and did not upload his e-dossiers within the permitted time. He claims that

he became aware of the result only in January, 2019 when he sought to upload his e-dossiers, which was not accepted, since the last date

for doing the same was already over on 16.09.2018.

The submission of the petitioner is that he belongs to a very remote area in the State of Rajasthan and due to lack of internet connectivity

and his illness he could not learn about the result declared by the DSSSB on its website. We are unable to accept this submission. The

petitioner while applying for the post of PGT (History) was well aware that the result of the written examination would be uploaded by the

DSSSB on its website and it was for the petitioner to track the same and to respond in terms of the advertisement issued by the respondent.

Having missed the bus, he cannot be permitted to submit his documents/e-dossiers after the cut-off date. If such relaxation were to be

granted to one candidate, it would be discriminatory in respect of others, who may have similarly missed the bus and this would render the

entire process undertaken by the DSSSB as open ended.

In view of the aforesaid, we find no merit in the present petition and the same is dismissed.Ã¢â¬â

He also placed on record a document F. No 1(201)/IT/DSSSB/2019/323 dated 21.07.2020 of DSSSB, GNCTD signed by Senior System Analyst IT

Branch stating the following :-

“This is with reference to the U.O No 1675 dated 30 06 2020 of Interview Cell, DSSSB in r/o of the information sought against post code

131/17, (Ram Avatar Dhobi Roll NO 2650001341) who has filed OA No. 1654/2019.

In this regard, it is submitted that there is no record of SMS found to applicant (Sh Ram Avatar Dhobi) mobile no registered with QARS

portal during the period 04.02.2019 to 13.02.2019.

Further, there is one record of email has been found between 04.02.2019 to 13.02.2019 searched on the basis of registered email address

of applicant (Ram Avatar Dhobi, email- ramkhawal@gmail.com) registered with OARS portal in sender email ID of DSSSB i.e.,

sadsssb.delhi@nic.in (Copy enclosed)

6. Heard the learned counsel of both the sides; examined the documents on record and perused the relevant judgment of Coordinate Bench of CAT

and Hon'ble High Court. We have observed that though the document no. F. No. 1(201)/IT/DSSSB/2019/323 dated 21.07.2020 signed by Senior

System Analyst IT Branch of DSSSB, GNCTD states that there is one record of email found between 04.02.2019 to 13.02.2019 searched on the

basis of registered e-mail address of applicant (Ram Avtar Dhobi) registered with OARS portal, in sender e-mail ID of DSSSB, there is no record to

show that this e-mail was received by the applicant. Also the decision of Coordinate Bench of CAT in OA No. 1923/2019 dated 17.05.2023 has

factored in the Judgment of Hon'ble High Court of Delhi in P ushpinder Singh Parnami vs. DSSSB dated 25.03.2019 as well as Jyoti vs.

GNCTD & Another and allowed the OA. The decision of the Coordinate Bench, of this Tribunal in OA No. 4163/2017 dated 27.05.2024 has

similarly allowed the OA.

7. In the light of the above, we are also inclined to follow the decisions of Coordinate Bench of this Tribunal. We find that the balance of convenience

in the instant OA lies with the applicant as he is meritorious and has already been shortlisted with 81 marks. We therefore, allow this OA with a

direction to the respondents to allow the applicant to submit his document for verification and if otherwise found fit, consider his candidature for

appointment to the post of PGT (English) (Male) (Post Code 131/17). This exercise shall be completed within a period of six weeks from the date of

receipt of a certified copy of this order. He will be entitled to all the notional benefits like fixation of pay and allowances and seniority. However, there

will be no payment of arrears of salary on the principle of "No work no pay". Also there will no order as to costs.