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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 13.12.2019

+ W.P.(C) 13185/2019

KAVITA

..... Petitioner

Through: Mr. K.P. Gupta, Advocate.

Versus

GOVERNMENT OF NCT OF DELHI AND OTHERS

..... Respondents

Through: Mrs. Avnish Ahlawat, Standing  
Counsel with Mr. N.K. Singh,  
Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE G.S. SISTANI**

**HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI**

**J U D G M E N T**

**G.S.SISTANI, J. (ORAL)**

**C.M. No. 53673/2019 (exemption)**

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

**W.P.(C) No.13185/2019**

1. The petitioner is aggrieved by the decision rendered by the Central Administrative Tribunal ('Tribunal') dated 14.10.2019 by which O.A. filed by the petitioner stands rejected.
2. The petitioner had appeared in the examination pursuant to an

advertisement issued by respondent No.2 with regard to 20 vacancies for appointment to the post of TGT (Natural Science). The petitioner was declared successful in the examination; however she did not find place in the list of first 20 successful candidates. Out of the successful candidates, four candidates did not join; and therefore another list consisting of the next 10 candidates was prepared, in which list the petitioner was shown at serial No.8. From the second list prepared, the dossiers of the first four candidates were sent to the user department by respondent No.2. The grievance of the petitioner is that all 20 vacancies were not filled-up; and that therefore the candidates mentioned in the second list should have been offered posts.

3. The Tribunal has rejected the O.A. on the ground that the second list was valid for a period of one year and thereafter the posts were carried-forward; another examination was held, in which the petitioner had participated but was not successful. Counsel for the petitioner submits that despite the fact that the second examination has been held and the petitioner was not successful in it, the petitioner should be offered employment based on the 2013 examination since at least four persons did not join and those posts were left vacant.

4. The facts which have been noticed hereinabove are not in dispute to the extent that the petitioner had participated in the examination pursuant to the advertisement of the year 2013; and that she was declared successful but was not in the list of first 20 candidates. Her name is shown in the second list prepared, which is reproduced below:-

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| Sl. No | Roll No. | Name                | DOB        | Marks |
|--------|----------|---------------------|------------|-------|
| 1      | 49101266 | AARTI               | 04/07/1987 | 77.75 |
| 2      | 49100347 | SARITA<br>MANN      | 01/01/1980 | 76.75 |
| 3      | 49000493 | PRIYANKA            | 01/12/1988 | 76.75 |
| 4      | 49000574 | POOJA<br>SHOKEEN    | 25/09/1987 | 76.5  |
| 5      | 49000159 | LAXMI<br>YADAV      | 09/02/1989 | 76.5  |
| 6      | 49001000 | POONAM<br>BERIWAL   | 13/07/1986 | 76.25 |
| 7      | 49000175 | RITU<br>KHATRI      | 23/05/1990 | 76    |
| 8      | 49000151 | KAVITA              | 27/09/1988 | 75.25 |
| 9      | 49000358 | AKANKSHA<br>DESHWAL | 15/06/1989 | 74.5  |
| 10     | 49000312 | NIDHI<br>SANWAL     | 08/09/1990 | 74.5  |

”

5. As per the second list the petitioner's name is shown at serial No.8. The dossiers of the first four candidates on this list were sent to the user department as per their request, since out of the 20 selected candidates, four candidates did not join. As the petitioner was not considered, a representation was made which was decided vide order

dated 22.07.2019 which reads as under:-

“ No.F.No.7013/LC/DSSSB/19/3319  
22/07/2019

Dated:

ORDER

*This order shall dispose of the representation dated 19/06/2018 filed by Ms. Kavita (Roll No.49000151), candidate for the post of TGT (Natural Science) Female, Post Code-01/13 in Directorate of Education in compliance of the directions of Hon'ble CAT order dated 12/03/2019 in OA No.812/2019.*

*2. The Hon'ble CAT while disposing the Original Application No.3070/2018 has directed as under:-*

*"4. We, therefore, dispose of .the OA, directing the respondents to pass orders on the representation dated 19.06.2018, submitted by the applicant and to indicate: (a) as to how many vacancies of OBC/Female in the post of TGT (Natural Science) were filled up and; (b) if all the posts are not filled up, the reasons therefore. It is needless to mention that if the posts are yet to be filled up, the case of the applicant and other similarly situated candidates shall be considered within four weeks from the date of receipt of a certified copy of this order".*

*3. That the applicant vide her representation dated 19/06/2018 has stated that the User department has returned the dossiers in respect of 04 OBC candidates, whose candidature were rejected, for replacement as these candidates did not join the said post.. She has further stated that apart from the above mentioned 04 posts, 04 more posts are not filled up and the result of 16 candidates were declared till date and it is mandatory on the part of selecting agency to fill up the unfilled vacancies.*

*4. She has, therefore, prayed that her name appears at S.No.8 of the notice dated 08.02.2017 and appointment till S.No.4 have already been made and, therefore, if the remaining vacancies are filled up, she stands a good chance*

*of her nomination to the post of TGT (Natural Science) Female, Post Code-11/13.*

*5. As per record, there are 20 vacancies under OBC category was notified. Out of which 16 vacancies have already been filled and the candidature of 04 candidates, who are higher in merit than the applicant, are kept-pending for want of clarification and these candidates were given opportunity to upload the requisite documents. The last candidate provisionally nominated under OBC category scored 76.50 marks. The applicant, Ms. Kavita has scored 75.25 marks and, therefore, her candidature cannot be considered for nomination.*

*6. As regards the contention of the applicant regarding cancellation of the candidature of 04 candidates and returning their dossiers for replacement, the Board, as per policy, drew candidates from waiting panel which is valid for one year from the date of declaration of results. The result for the post of TGT (Natural Science), Post Code-11/13 was declared on 03/08/2016 and the waiting panel is valid upto 02/08/2017. However, the User department, i.e. Directorate of Education returned the dossiers of 04 candidates vide letters dated 29/09/2017 & 05/02/2018 i.e. after the expiry of waiting panel. The unfilled vacancies were also returned to the User department for future notification, as per DOPT guidelines.*

*7, It is pertinent to mention here that the applicant unfortunately stood no chance for her nomination as there were 20 candidates in the merit list between her and the last provisionally nominated candidate.*

*8. Keeping in view the above stated position, it is conveyed that the candidature of the applicant, Ms. Kavita cannot be considered for selection to the post of TGT (Natural Science) Female, Post Code-11/13 under UR (sic) category.*

*This issues with the approval of Competent Authority.”*

6. In this order the user department has clearly noted the contention of the petitioner and thereafter informed the petitioner that 20 vacancies under OBC category were available, out of which 16 vacancies had already been filled-up by candidates who were higher in merit than the petitioner. The last candidate provisionally nominated under the OBC category secured 76.50 marks while the petitioner had secured 75.25 marks; and therefore her candidature could not be considered for nomination. The grievance of the petitioner was also examined regarding cancellation of four candidates and returning of their dossiers for replacement to the board. It was explained that the wait-list is valid only for one year from the date of declaration of results. The results were declared on 03.08.2016; and the waiting panel was valid upto 02.08.2017; and that the user department returned the dossiers of four candidates after the expiry of the waiting panel.

7. We have heard learned counsel for the parties and considered their rival submissions.

8. In our view, the decision rendered by the respondents, while deciding the representation of the petitioner, requires no interference. It is to be noted that the petitioner stakes her claim with respect to an examination held in the year 2013, although thereafter a second examination has already been held and though the petitioner participated in the later examination, she was declared unsuccessful. After the second examination having been held, no relief can be

granted in favour of the petitioner for an examination held earlier.

9. We accordingly find no infirmity in the order of the Tribunal; no grounds are made-out for interference by way of the present petition, which is therefore dismissed.

**C.M. Nos.53672/2019 and 53674/2019**

10. Since the main writ petition is dismissed, these applications are also dismissed.

**G.S.SISTANI, J.**

**ANUP JAIRAM BHAMBHANI, J.**

**DECEMBER 13, 2019**

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