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

Date of Decision: 28th January, 2020

+ **W.P.(C) 13427/2019 & CM APPL. No.54476/2019**

VARSHA SIROHI Petitioner

Through: **Mr. M.D. Jhangra, Advocate**

versus

GOVT. OF NCT OF DELHI & ORS. Respondents

Through: **Mrs. Avnish Ahlawat, Standing
Counsel, GNCTD (Services) with
Mr. Nitesh Kumar 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)

CM APPL.3523/2020 (additional documents)

Issue Notice.

Mrs. Avnish Ahlawat, learned Standing Counsel for the respondent accepts notice.

Additional documents be taken on record, subject to all just exceptions.

Application stands disposed of.

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1. The present petition under Article 226/227 of the Constitution

of India is directed against the order dated 13.12.2019 passed by the Central Administrative Tribunal, Principal Bench, New Delhi ('Tribunal', for short) by which the OA No.3650/2018 filed by the petitioner stands dismissed.

2. With consent of the parties, the present writ petition is set down for final hearing and disposal at the admission stage itself.

3. The petitioner applied for the post of Assistant Teacher (Primary), Post Code 89/17 pursuant to an advertisement No.04/17 notified by respondent No.2 for which the last date for application was 31.01.2018. The petitioner claims that she made an online application on 15.01.2018 which was duly received *vide* registration No.1812199461797262009. It is also claimed that in the month of July 2018, when she was checking the website, the petitioner noticed that the application status against her registration number showed "*Application Not Received in Board due to Pending Final Submit by Candidate*". In view of this endorsement, the petitioner made a representation to the respondents on 14.07.2018 and 16.07.2018, which remained unanswered.

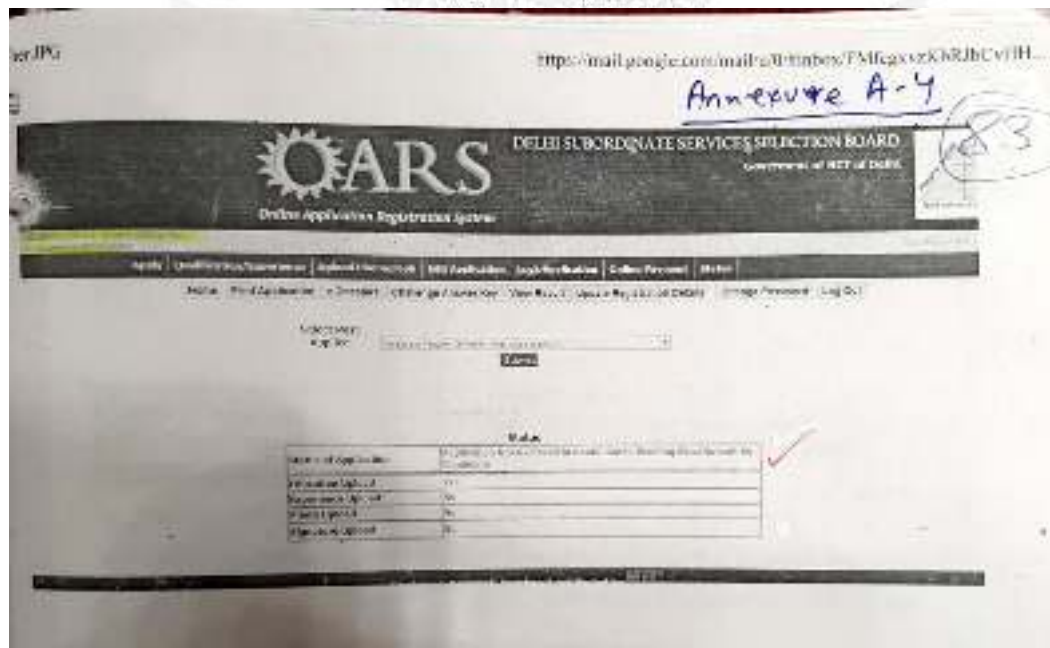
4. The notification for conducting written examination was issued on the website in September 2018. However, since the petitioner was not issued an admit card, she approached the Tribunal. By an interim order passed by the Tribunal on 25.09.2018, the petitioner was allowed to appear in the written examination held on 14.11.2018. The petitioner secured 118.88 marks, i.e. much above the cutoff marks for the OBC category and was declared successful. When the

matter was finally argued, the O.A. was dismissed primarily on the ground that the petitioner had not made an application at all.

5. The submissions of the learned counsel for the petitioner are two-fold. Firstly, it is contended that not only did the petitioner register herself online on 15.01.2018, but she also submitted her application on the same date ; and if there was any technical glitch, she should not be made to suffer. The second argument is that even otherwise, since the petitioner had appeared in the examination and had been shortlisted and since vacancies were available, she should be considered for appointment as an Assistant Teacher (Primary).

6. Mrs. Avnish Ahlawat, learned standing counsel for the respondent has contended that there is no infirmity in the order passed by the Tribunal. The Tribunal has applied its mind and has noticed that although the petitioner had 'registered' herself on the Online Application Registration System (OARS) website, she did not make any 'application' for the post. The screenshot, which is relied upon by the petitioner, also shows that no documents were uploaded at the time of registration ; and merely because she was allowed by the Tribunal to appear for the written examination, no vested right would be created in her favour. It is also contended by Mrs. Avnish Ahlawat that mere availability of vacancies would not create any right in favour of the petitioner who had not even applied for the post, since candidates who are on the waiting list, would have to be considered first ; and since no application of the petitioner is before the respondents, the case of the petitioner cannot be considered by

7. We have heard learned counsel for the parties. Although a disputed question of fact arises before us, namely, as to whether the petitioner had made an application for the particular post or not, we are inclined to accept the view of the Tribunal for the reason that even the screenshot, which is sought to be relied upon by the petitioner, makes it clear that the petitioner's application had not been received in the Board " ... *due to Pending Final Submit by Candidate*". The screenshot relied upon by the petitioner is scanned below:-



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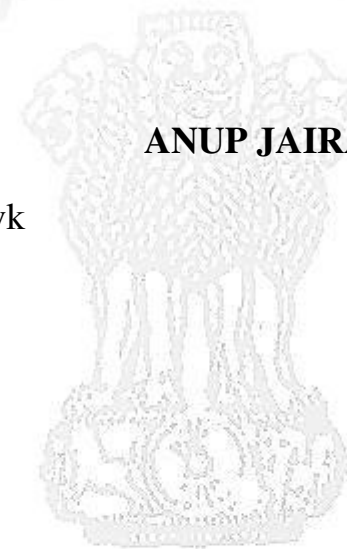
the petitioner's favour. Although the error may have been inadvertent on the part of the petitioner, which is unfortunate, in the absence of any application having been made, no relief can be granted.

9. The writ petition is accordingly dismissed. Pending application also stands disposed of.

G.S.SISTANI, J.

ANUP JAIRAM BHAMBHANI, J.

JANUARY 28, 2020/vk



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