

\$~24 to 45

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

% *Date of Order : 30th January, 2020*

- + W.P.(C) 1445/2019, CM APPL 6622/2019
GOVT. OF NCT OF DELHI AND ANR. Petitioners
versus
ANITA KATARIA AND ORS. Respondents
- + W.P.(C) 3103/2019, CM APPL 14220/2019
GOVT. OF NCT OF DELHI AND ORS. Petitioners
versus
SOMA AND ORS. Respondents
- + W.P.(C) 3104/2019, CM APPL 14222/2019
GOVT. OF NCT OF DELHI AND ORS. Petitioners
versus
NEERAJ KUMAR GUPTA AND ORS. Respondents
- + W.P.(C) 3107/2019, CM APPL 14230/2019
GOVT. OF NCT OF DELHI AND ORS. Petitioners
versus
SUNIL DEVI Respondent
- + W.P.(C) 3943/2019, CM APPL 17895/2019
GOVT. OF NCT OF DELHI AND ORS. Petitioners
versus
SARITA RANI AND ANR. Respondents
- + W.P.(C) 4049/2019, CM APPL 18277/2019
GOVT. OF NCT OF DELHI AND ORS. Petitioners
versus
RASHMI DUA AND ORS. Respondents
- + W.P.(C) 4051/2019, CM APPL 18281/2019
GOVT. OF NCT OF DELHI AND ORS. Petitioners
versus
ASHUM KUMAR KHARODI AND ORS. Respondents
- + W.P.(C) 6176/2019, CM APPL 26552/2019
GOVT. OF NCT OF DELHI & ORS Petitioners
versus
KARUNA & ORS Respondents

- | | | |
|---|--|---|
| + | <p>W.P.(C) 6213/2019, CM APPL 26673/2019
GOVT OF NCT OF DELHI & ORS</p> <p style="text-align: center;">versus</p> <p>RAJEEV & ANR</p> | <p>..... Petitioners</p> <p>..... Respondents</p> |
| + | <p>W.P.(C) 8911/2019, CM APPL 36765/2019
GOVT. OF NCT OF DELHI & ORS</p> <p style="text-align: center;">versus</p> <p>SHUCHI</p> | <p>..... Petitioners</p> <p>..... Respondent</p> |
| + | <p>W.P.(C) 8917/2019, CM APPL 36777/2019
GOVT. OF NCT OF DELHI & ORS</p> <p style="text-align: center;">versus</p> <p>GEETA RANI & ORS</p> | <p>..... Petitioners</p> <p>..... Respondents</p> |
| + | <p>W.P.(C) 8941/2019, CM APPL 36893/2019
GOVT. OF NCT OF DELHI & ORS</p> <p style="text-align: center;">versus</p> <p>MANJU MEENA & ORS</p> | <p>..... Petitioners</p> <p>..... Respondents</p> |
| + | <p>W.P.(C) 9091/2019 and C.M. No.37553/2019
GOVT. OF NCT OF DELHI AND ANR.</p> <p style="text-align: center;">versus</p> <p>MS. SWATI MISHRA</p> | <p>..... Petitioners</p> <p>..... Respondent</p> |
| + | <p>W.P.(C) 9435/2019, CM APPL 38822/2019
GOVT. OF NCT OF DELHI AND ORS.</p> <p style="text-align: center;">versus</p> <p>SUSHOBHA YADAV ANR ORS.</p> | <p>..... Petitioners</p> <p>..... Respondents</p> |
| + | <p>W.P.(C) 9903/2019 and C.M. No.40941/2019
GOVT. OF NCT OF DELHI AND ORS.</p> <p style="text-align: center;">versus</p> <p>KANIKA AND ORS.</p> | <p>..... Petitioners</p> <p>..... Respondents</p> |
| + | <p>W.P.(C) 9904/2019 and C.M. No.40943/2019
GOVT. OF NCT OF DELHI AND ORS.</p> <p style="text-align: center;">versus</p> <p>SUDESH AND ORS.</p> | <p>..... Petitioners</p> <p>..... Respondents</p> |
| + | <p>W.P.(C) 9910/2019 and C.M. No.41025/2019</p> | |

	GOVT. OF NCT OF DELHI AND ORS.	 Petitioners
	versus	
	HARISH JHAKAR AND ORS.	 Respondents
+	W.P.(C) 9911/2019 and C.M. No.41027/2019	
	GOVT. OF NCT OF DELHI AND ORS.	 Petitioners
	versus	
	SARGAM AHLAWAT AND ORS.	 Respondents
+	W.P.(C) 10207/2019 and C.M. No.42087/2019	
	GOVT. OF NCT OF DELHI & ORS.	 Petitioners
	versus	
	AMIT JAYANT & ORS.	 Respondents
+	W.P.(C) 10212/2019 and C.M. No.42100/2019	
	GOVT. OF NCT OF DELHI & ORS	 Petitioners
	versus	
	RENU DHANKAR & ORS	 Respondents
+	W.P.(C) 10600/2019 and C.M. No.43825/2019	
	GOVT. OF NCT OF DELHI AND ANR.	 Petitioners
	versus	
	NEELAM RANI	 Respondent
+	W.P.(C) 10854/2019 and C.M. No.44906/2019	
	GOVT. OF NCT OF DELHI AND ORS.	 Petitioners
	versus	
	SAVITA AND ANR.	 Respondents
+	W.P.(C) 9251/2019	
	GOVT. OF NCT OF DELHI AND ORS.	 Petitioners
	versus	
	BHARTI DHAMA AND ORS.	 Respondents

Mr. Harkesh, proxy counsel for Mr. Yogesh Kumar Malini,
Advocate for respondents in items No.25 & 32.

Mr. Tarun Kumar, Advocate for R-2 in item No.31.

Mr. Prabjot Kaur, proxy counsel for Mr. M.K. Bhardwaj,
Advocate for R-5 in item No.37.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

G.S. SISTANI, J. (ORAL)

1. In this batch of writ petitions, the petitioners are aggrieved by almost identical orders passed by Central Administrative Tribunal ('Tribunal').
2. To appreciate the submissions made by Mrs. Avnish Ahlawat, learned Standing Counsel appearing for petitioners, we deem it appropriate to reproduce the operative portion of interim order passed by the Tribunal in batch matters '***Soma and Others Vs. Govt. of NCT of Delhi and Others***': O.A. No.463/2018 & others decided on 23.10.2018 :

“6. We, therefore, dispose of these OAs directing that :

- (a) the respondents shall proceed to declare results of the examination which was held in pursuance of the impugned notification/advertisement.
- (b) the interim order passed in these OAs, shall not be construed as conferring eligibility upon them, but the same shall be decided by the respondents separately.
- (c) in case the applicants or any of them are found to be in the zone of selection, the respondents shall inform such of them through a notice as to how they are not eligible to participate in the selection process, duly indicating the reasons.
- (d) the applicants shall be entitled to submit their explanation/representation putting forward their grievance, within 15 days from the date of receipt of such communication.

(e) further steps shall be taken by the respondents as regards the applicants only after passing a reasoned order, on the basis of the notice and reply, if any.

(f) the verification as indicated shall be undertaken along with the results in the examination.

It shall be open to the applicants to approach the Tribunal if their grievance subsists. There shall be no order as to costs.”

3. It may also be noted that the above quoted order was followed in all other matters, which are also listed before us today; and we are informed that some other matters are yet to be filed in this court.
4. Mrs. Ahlawat submits that the O.As. could not have been decided without deciding the issue raised; and directions could not have been issued allowing the applicants to submit their applications offline when a proper procedure for submitting the applications online was prescribed. She further submits that vide the interim-orders passed, the candidates who were prima-facie over-age and ineligible, for not having cleared the Central Teacher Eligibility Test (CTET), were also permitted to appear in the examination. Directions were issued to declare the results; and thereafter an unusual procedure was followed by directing the petitioners herein to inform all the candidates who were in the zone of selection through a notice as to why they are not eligible to participate in the selection process indicating reasons. The Tribunal further granted liberty to the applicants to submit their explanations/representations putting forward their grievance within 15 days; and a direction has also been passed to the petitioners to pass a reasoned order on the basis of such notice and reply.

5. Mrs. Ahlawat strongly urged before us that this procedure is untenable in law since the public examination was to be conducted based on the advertisement which was published in newspapers; and if in large-scale public examinations such directions are passed, it would become virtually impossible to fill-up vacancies for user-departments. She submits that even otherwise, no purpose would be achieved in informing the candidates the reasons for their rejection, since all the candidates in these writ petitions and the O.As. before the Tribunal, have essentially approached the Tribunal seeking age-relaxation and relaxation of CTET qualification.
6. In this backdrop, counsel for the petitioners contends that the order of the Tribunal should be set-aside, lest it send a wrong message and form a precedent, which would be virtually impossible to apply within cases where the number of candidates are even more than in the present examination.
7. She further contends that the Tribunal completely lost track of the fact that the issue raised in these petitions is no longer *res integra* since this issue stands decided as far back as in the year 2008 in the judgment rendered in ***Sachin Gupta & others Vs. DSSSB***, 152 (2008) DLT 378 (DB) and is also squarely covered by a batch of matters in ***Raj Bala & Another Vs. GNCTD & others***: W.P. (C) 7240/2017 decided 23.08.2017.
8. Mrs. Ahlawat further submits that the issue of age-relaxation has also already been covered in the judgment rendered in ***Annu & Others Vs. GNCTD & Others***: W.P. (C) 11328/2017 decided on 11.01.2018.

9. Mrs. Ahlawat contends that in absence of a finding that the applicants before the Tribunal were entitled to the relief prayed for, the O.A. could not have been disposed of on the basis of interim directions.
10. Mr. Aggarwal, who is appearing on behalf of the respondents in some of the matters, submits that the present petitions have become infructuous as the petitioners have already complied with the orders of the Tribunal. He submits that out of approximately 3000 candidates/respondents, 2950 candidates have not qualified the examination. As far as the remaining 50 respondents are concerned, notices have been issued in most cases. He submits that in case those 50 persons, or any other person who has been rejected, has a surviving grievance they would avail such remedy as may be available to them, in accordance with law.
11. We have heard learned counsel for the parties and have examined the order passed by the Tribunal, relevant extracts of which we have already reproduced above. The Tribunal granted leave to the applicants to appear in the examination; and thereafter, vide the impugned orders, all O.As. were allowed with directions to the petitioners to declare the results; and as per direction “(c)” in the impugned order, if an applicant was not eligible, the applicant was to be informed, giving reasons for rejection; and thereafter, time was required to be given to the applicant to put-forward their explanations/representations within 15 days; and subsequently a reasoned order was to be passed by the petitioners.
12. In our view the Tribunal exceeded its jurisdiction in passing such directions, especially for the reason that there is no discussion on the merits of the matter nor have the contentions of the parties been noted

muchless the law which has been relied upon. As noticed above according to the petitioners, the legal position is against the respondents. We are also of the view that the terms of the advertisement could not have been varied by the Tribunal; and, as far as possible, the court should be slow in treading on such a path since it can cause serious prejudice to the rights of the parties. We are also of the considered view that there was no necessity for calling upon the petitioners to inform each applicant the reasons for rejection; and thereafter putting in place an elaborate process by which representations and explanations were to be received and reasoned orders were to be passed. If such procedures are encouraged, public bodies like DSSSB, UPSC etc. would find it impossible to conduct public examinations and fill-up vacancies for the user-departments.

13. Accordingly, we set-aside the impugned orders of the Tribunal, being conscious of the fact that to a large extent the orders already stand complied with. We also make it clear that if any of the respondents are aggrieved by the orders of rejection, they would be at liberty to seek such remedy as available to them in accordance with law.
14. All the writ petitions and pending applications stand disposed of in view of the above observations.
15. Future dates given in these matters, if any, stand cancelled.

G.S. SISTANI, J

ANUP JAIRAM BHAMBHANI, J

JANUARY 30, 2020/ck