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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 2nd June, 2021

+ **W.P.(C) 5682/2021 & CM No.17754-55/2021**

HIMANI SARDANA Petitioner
Through Mr. Ritesh Khatri ,Advocate

versus

GNCT OF DELHI & ORS Respondents
Through Mrs.Avnish Ahlawat, Standing
Counsel- GNCTD with
Mr.Nitesh Kumar Singh,
Mrs.Tania Ahlawat, Ms.Palak
Rohmetra , Advs for R-1 to 4.
Mr.Divya Prakash Pande,
Standing counsel for North
DMC.
Mr.Siddhant Nath, Additional
Standing Counsel for R-6.
Mr.Rajesh Kr. Singh, Adv. for
R-7.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE NAVIN CHAWLA
MANMOHAN, J. (Oral)

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed challenging the order dated 15th February, 2021 passed by the Central Administrative Tribunal (hereinafter referred to as the 'CAT'), Principal Bench in OA No. 3587 of 2017. Petitioner seeks directions to Respondents 3 and 4 to redraw the final result considering the candidature of the petitioner as

a suitable candidate for the post of Assistant Teacher (Nursery). Petitioner further seeks directions to the Respondents to disclose the exact status of vacancies, and for selection and appointment of Petitioner for the said post.

3. Learned Counsel for the Petitioner states that the Petitioner had applied for the Post of Assistant Teacher (Nursery) as an Unreserved Candidate in the Post Code 3/13 (Directorate of Education, GNCTD) and secured 115.75 marks. He submits that the Tribunal has erred in observing that the cut off marks according to the combined list prepared for the two post codes (68/10 and 3/13) was 116.25. He states that according to the Additional Affidavit filed by Respondent No 3 in O.A No.3587/2017 dated 31st July 2019 (***Annexure P 6***), the cut off was 115.75 i.e similar to the marks secured by the petitioner. He states that two other candidates (having Roll Nos. 68013830 and 68019690) who secured 116 marks had been selected, therefore the cut off marks could not possibly have been 116.25.

4. Learned Counsel for the Petitioner further states that following cancellation of candidature of Ms. Gufriama Nahid, a vacancy was created in the post code 3/13 for which the Petitioner had applied. He submits that the Respondents wrongfully selected another candidate from the Scheduled Caste category, Ms Chetana Kashyap, who had secured 115.75 marks, to the vacancy in the unreserved category, for which the Petitioner was the only eligible candidate. He states that the Petitioner was called by the Respondents for verification of documents, but her candidature was arbitrarily rejected later.

5. In view of the aforesaid, it is apparent that the Petitioner's arguments is that the findings in paragraphs 4 and 5 of the impugned order are contrary to the record and certain facts were concealed by the Respondents and disregarded by the CAT. The aforesaid arguments, if correct, constitute an error apparent on the face of the record.

6. Consequently, the present petition is disposed of along with pending applications with liberty to the Petitioner to apply for the review of the impugned judgment and order before the CAT. If such an application is filed within two weeks from today, the same shall be considered on merits and shall not be dismissed on the ground of limitation. In the event the Petitioner is aggrieved by the order of the CAT, she shall be at liberty to file an appropriate proceeding in accordance with law.

7. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

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NAVIN CHAWLA, J

JUNE 2, 2021/Arya