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

% Judgment delivered on: 23rd November, 2022

+ **W.P.(C) 16128/2022 and C.M. No. 50378/2022**

MOHAMMAD SHAHID

..... Petitioner

Versus

DTTE, GOVT. OF NCTD AND ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. T.N. Tripathi and Mr. Prem Chand,
Advocates.

For the Respondents: Ms. Avnish Ahlawat, Standing Counsel,
GNCTD with Mr. Nitesh Kumar Singh, Ms.
Laavanya Kaushik and Ms. Aliza Alam,
Advocates.
Mr. Naresh Kaushik, Advocate for the UPSC
with Mr. Anand Singh, Advocate.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

SANJEEV SACHDEVA, J (Oral)

1. Petitioner impugns order dated 30.09.2022, whereby the

Central Administrative Tribunal (hereinafter, the 'Tribunal') has dismissed the Original Application filed by the Petitioner on the ground that vacancies notified have been filled up and the reserve list could not be operated thereafter.

2. Pursuant to an advertisement issued by the Union Public Service Commission (UPSC) for recruitment by selection to various posts in the departments of Central Government and Government of NCT of Delhi, Petitioner applied for the post of Lecturer (Computer Engineering).

3. The result of the said selection process was notified on 14.08.2019. Petitioner was not in the select list but was at serial No.5 of the reserve list. On 25.02.2021, four candidates out of the select list did not join and their candidature was cancelled. A request was made by the user department to the UPSC for sending the dossiers of four persons from the waiting list, which was sent on 12.07.2021.

4. As noticed hereinabove, Petitioner was at serial No.5. Accordingly, his name was not sent and name of four candidates above him in the waiting list were sent to the user department.

5. Out of the four candidates in the reserve list, one candidate joined and candidature of three candidates was cancelled because they failed to join within the prescribed period. Accordingly, on 14.02.2022, their candidature was cancelled. No further request was

made by the user department to the UPSC for sending the dossier of anybody else from the waiting list.

6. The contention of the Petitioner is that between June, 2021 to August, 2021, no further request was made by the user department to the UPSC to send the name of any person from the waiting list. He submits that he was on the top of the list and there were vacancies available accordingly, he should have been recommended by the UPSC for appointment.

7. We notice that the final result was notified on 14.08.2019 and at best, the reserve list would have remained operational for a period of two years, which expired on 14.08.2021. On 10.06.2021, a request was made by the user department for operating the waiting list, which was responded to by the UPSC on 12.07.2021, recommending the names of four persons senior to the Petitioner in merit as per the waiting list. The candidature of three, out of four was cancelled by the user department only on 14.02.2022, by which time the period of two years from the notification of the result and the reserve list had expired.

8. Since the period of two years had lapsed from the notification of the waiting list, the user department had rightly not sought for any further recommendation from the UPSC and held the process to have been completed even though there were vacancies left.

9. The contention of the learned counsel for Petitioner that there was no request made between June, 2021 to August, 2021 by the user department, holds no merit for the reason that the UPSC had recommended the names of four candidates against the available vacancies as on that date i.e., 12.07.2021 and it is only later that three out of four did join and their candidature has been cancelled on 14.02.2022. Since the candidature of three of the recommended candidates from the waiting list was cancelled only on 14.02.2022, by which time the period of time two years has elapsed, the name of the Petitioner could not have been recommended.

10. Learned counsel for the Petitioner has contended that in similar circumstances for the post of Lecturer (Electronic and Communication), the exercise was carried on till 28.01.2022, even though the result had been notified on 10.10.2019.

11. This contention of the learned counsel for the Petitioner also does not hold any merit for the reason that in the RTI response that has been placed on record by the Petitioner, it is shown that the user department had requested for names of the candidates from the reserve list on 25.02.2021 and 16.06.2021, which was within the period of two years from the notification of the result in respect of the said post i.e., 10.10.2019. It is apparent that the request from the user department was sent on 16.06.2021 before the expiry of period of two years. UPSC, however, responded to the request only on 28.01.2022,

which could never be to the detriment of the candidates in the reserve list for that post. Clearly the facts of the Petitioner's case are not similar to that for the other post, for the reason that in this case, the right of the Petitioner, if at all, would have accrued only on the cancellation of candidature of the three recommended candidates from the reserve list, which happened only on 14.02.2022, after the expiry of period of two years.

12. Accordingly, we find no infirmity in the decision of the user department in rejecting the representation of the Petitioner and also of the Tribunal in dismissing the Original Application filed by the Petitioner.

13. We find no merit in the petition. Petition is accordingly dismissed.

SANJEEV SACHDEVA, J.

TUSHAR RAO GEDELA, J.

NOVEMBER 23, 2022
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