

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

% Date of decision: May 1, 2023

+ W.P.(C) 5611/2023, CM APPLs. 22001/2023 & 22002/2023

SAVITA SHARMA

..... Petitioner

Through: Mr. Samyak Gangwal, Adv.

versus

GOVERNMENT OF NCT OF DELHI
& ANR.

..... Respondents

Through: Mrs. Avnish Ahlawat, Standing
Counsel with Ms. Tania Ahlawat, Mr.
Nitesh Kumar Singh, Ms. Palak
Rohmetra, Ms. Laavanya Kaushik,
Ms. Aliza Alam, Adv.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

CM APPL. 22002/2023

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 5611/2023

1. The challenge in this petition is to an order dated March 06, 2023 of the Central Administrative Tribunal ('Tribunal', in short) in Original Application being OA 654/2023, whereby the Tribunal has dismissed the OA filed by the petitioner.

2. The case of the petitioner before the Tribunal was that she had participated in an examination for appointment to the post of TGT-Social Science (Female) under the EWS category. The cut-off marks for the EWS category was 106.69.

3. It is a conceded position that the petitioner herein had secured 98.3 marks in the afore-said examination and in fact was called upon by the respondents to upload her testimonials and since the petitioner had secured below cut off marks, she was placed in the reserved panel.

4. The grievance of the petitioner is that the respondents have filled 42 vacancies from the EWS category without any proper verification of the testimonials of those 42 candidates.

5. According to Mr. Nitesh Kr. Singh, learned counsel appearing for the respondents, the DSSB had shared dossiers equivalent to the vacancies plus 20% of the candidates in the waiting panel with the User Department. According to him, if all the vacancies are filled by the candidates, who are within the vacancies as well as in 20%, the reserved list, which is consisting of candidates who have secured less than the cut-off marks, will not be operative. On the other hand, if the seats are not filled from the vacancies plus 20%, i.e., the waiting list then in such a scenario, the reserved list will be operative. It is a conceded position that the petitioner's name was neither in the actual vacancies nor in the 20% which constitutes the waiting list, and the appointments having been made, the reserved list is not operational.

6. Suffice to state that the Tribunal has in paragraphs 11 to 13 stated as under:

“11. Having heard the counsel for the parties, we have perused the decision rendered by a Co-Ordinate Bench in OA No.2935/2022 and batch cases. It is seen that the same was not with respect to the persons who were nominated in the impugned result notice and in the wait list or the reserve panel. Thus, the reliance on the said decision of the Co-Ordinate Bench in OA No.2935/2022 is misplaced.

12. In the present factual matrix of the case, the applicant is neither in the wait list nor in the reserve panel. The applicant is only taking a chance with the selection process based on the aforesaid Co-ordinate Bench decision.

13. He claims that the name of the applicant was within the zone of consideration and was in the Reserve List. However, no such document has been placed on record. It is a well settled law as held by Hon'ble Apex. Court in its various decisions that even the candidates in Wait List panel are not entitled to any discretionary relief.”

7. The submission of Mr. Samyak Gangwal, learned counsel appearing for the petitioner is that the respondents cannot make appointments against the notified vacancies without carrying out proper verification. His submission is, many of the candidates who have applied under the EWS category do not have proper EWS certificates. In other words, it is his submission, if the candidates who have been appointed against the notified vacancies, if not having valid EWS certificates, then there is likelihood that the petitioner shall get appointed to the said post.

8. On a pointed query to Mr. N.K. Singh whether the respondents have filled all the 42 vacancies, his answer is in the affirmative. On a further query whether the verification has been carried out in conformity with the appointment order issued on December 28, 2022, though Mr. Singh states, he is not aware of this fact, it must be stated that it is obligatory on the part of the respondents to carry out the exercise of verification. Having said that, the Tribunal is justified in stating in paragraph 12 of the impugned order that *“the applicant is only taking a chance with the selection process”*.

9. The above is because the petitioner’s claim is primarily for the reason, in the eventuality on verification of the EWS certificates of the selectees, it is found that they are invalid, there is a likelihood that the petitioner may be appointed to post of TGT-Social Science (Female).

10. On a pointed query whether any foundation has been laid in the instant petition in support of the submission that a EWS certificate of a candidate who has been appointed is in fact found to be fabricated / invalid, his answer is, by drawing our attention to page 139 which is a ‘Rejection Notice No. 129’ with regard to appointments made to the post of TGT-Natural Science (Female), wherein according to the counsel for the petitioner, the appointments of 26 candidates out of 36 candidates to that post, have been cancelled on the ground that they did not submit, valid EWS certificate. We are afraid such a plea cannot be accepted for the reason that the same pertains to a different post, i.e., of TGT-

Natural Science (Female) and not in respect of TGT-Social Science (Female) with which we are concerned in this petition.

11. In the absence of any foundation laid in the petition to substantiate his plea / stand, the submission of the counsel for the petitioner cannot be accepted.

12. We agree with the observation of the Tribunal that the petitioner is only taking a chance with the selection process. Thus, we do not see any reason to interfere with the impugned order of the Tribunal.

CM APPL. 22001/2023

Dismissed as infructuous.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

MAY 1, 2023/jg