



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

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Date of decision: July 18, 2023

+ W.P.(C) 7678/2023

ARUN KUMAR

..... Petitioner

Through: Mr. Bharat Bhushan, Adv.

versus

THE CHAIRMAN, DELHI SUBORDINATE SERVICES
SELECTION BOARD AND ORS.

..... Respondents

Through: Mr. Gaurav Dhingra, Adv. for
R-1/DSSSB

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

1. The challenge in this writ petition is to an order dated October 14, 2022, passed by the Central Administrative Tribunal Principal Bench, New Delhi, ('Tribunal', for short) in Original Application No.2968/2022 ('OA', for short) whereby the Tribunal has dismissed the OA filed by the petitioner. The challenge of the petitioner before the Tribunal was to an order dated September 22, 2022, which is an order passed by the respondents pursuant to a direction given by the Tribunal in the earlier round of litigation initiated by the petitioner herein being in OA 2338/2022, which was disposed of on August 29,



2022, giving the direction to the respondents to consider the representation of the petitioner with respect to his claim for appointment to the post of Instructor Drawing under the OBC category. The Tribunal while rejecting the OA has in paragraphs 5, 6 and 7 stated as under:

“5. We have gone through the impugned order dated 22.09.2022. The facts contained therein are not disputed. The said order clearly mentions that the marks obtained by the last selected candidate in the OBC category are 82.75, whereas the applicant had secured only 82.25 marks. The said order further goes on to state that all the 8 vacancies which were advertised under the OBC category have been filled up pursuant to the selection process and it categorically mentions that no vacancies remained unfilled under the said category. In our view, if at later stage, a situation emerged that some vacancies have arisen, that cannot be held as a ground to consider the candidature of the applicant as it would amount to the entire selection being unending and open-ended. Moreover, the impugned order also categorically mentions that the waiting panel has also since expired.

6. We are of the considered view that since the applicant has secured lesser marks than the marks secured by the last selected candidate and it is nobody's case that anyone who has secured lesser marks than the applicant is given appointment, there is no cause for the applicant to claim appointment against the said post. Accordingly, in our opinion, no useful purpose would be served by keeping the present OA pending.

7. In view of the facts as narrated above, the OA is dismissed, at the admission stage itself.”

2. The facts as noted from the record are that a vacancy notice



No.01/2014 was issued by the respondents for the post of Instructor Drawing under the OBC category. The number of posts advertised against the said category, were 8. As per the record, initially on the declaration of the result, the cut-off marks for the OBC category were 86.75. It appears that supplementary result was declared for the post in question under the OBC category with cut-off marks as 82.75. In other words, the persons above the said marks were appointed.

3. The submission of the learned counsel for the petitioner is that the vacancies being in existence, the waiting list need to be operated against those vacancies.

4. The said submission is contested by the learned counsel for the respondents by stating 8 dossiers were sent by the DSSSB to the concerned department. It transpired, one candidate was not eligible which resulted in a fresh dossier being sent by the DSSSB. That apart, he submits that the petitioner was at serial No.2 of the waiting list and the life of the waiting list was for one year from the date of declaration of the result which expired on February 23, 2021, the petitioner could not be appointed. The vacancy which arose was filled by the candidate at No.1 in the waiting list that too before the cut-off date. He also states though three more vacancies arose, but they were after the cut-off date, as such the waiting list was not operated.

5. We find no merit in the submission of the learned counsel for the petitioner for the simple reason that though vacancies may be existing but that cannot be filled now as the life of the panel has expired. We find that the Tribunal was justified in dismissing the OA in terms of the finding in paragraphs 5, 6 and 7 which we have already



reproduced above.

6. Accordingly, the writ petition is dismissed. No costs.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

JULY 18, 2023/*aky*