



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

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Date of decision: August 1, 2023

+ W.P.(C) 5233/2020

SHILPI VERMA

..... Petitioner

Through: Mr. G. L. Verma, Adv.

versus

CENTRAL BOARD OF SECONDARY
EDUCATION (CBSE) & ORS.

..... Respondents

Through: Mr. Anil Shrivastav, Adv. for CBSE
Mr. Jogy Scaria, Ms. Beena Victor,
Mr. Keerthi Priyan E. and
Ms. M. Priya, Advs. for R-3

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 petition is to an order dated January 23, 2020 passed by the Central Administrative Tribunal, Principal Bench, New Delhi ('Tribunal', for short) in Original Application No.2055/2017 ('OA', for short) filed by the petitioner herein, whereby the Tribunal has dismissed the OA by stating in paragraphs 6 and 7 as under:



“6.. We have perused the entire list produced as Annexure A-4 by the applicant and from the close scrutiny of the marks obtained by all the 53 candidates in the written test as well as in the interview, we are of the view that there is no unreasonableness or arbitrariness in giving marks in the interview nor is there discrimination meted out to the applicant. Though in Annexure A4 list referred to above, the marks regarding interview component is described as 30% weightage, however, in the counter affidavit it is stated that the interview was for 30 marks and in view of the fact that the written test is given weightage of 70%, the marks obtained in the interview have to be understood as marks given out of 30 marks.

7. In view of the facts and circumstances of the case given above, we are of the view that there is no illegality or arbitrariness or unreasonableness or discrimination in giving marks to various candidates including the applicant. As such there is no merit in the OA.”

2. The facts as noted from the record are that petitioner appeared in the written test conducted by the respondent No.1 for the post of Analyst. In the written test, she had secured 64.5 marks out of 100 marks under the OBC category.

3. It was her case, the respondent No.1 had decided to give 70% weightage to the written test and as such her marks in the written test were reduced to 45.15. It was also her case that in the interview process she was given only 6 marks out of 30 marks because of which she was not selected.

4. According to her, the process of selection was changed by the respondent No.1 after the selection process got started. In that sense, it was alleged that originally there was no process of interview stipulated in the advertisement published by respondent



No.1. The same was added later after the result of the written test was declared by the respondent No.1 and as such the selection process is totally illegal and could not have been adhered to.

5. The case of the respondent No.1 before the Tribunal was that there was no change of the rules of the selection process, as alleged by the petitioner. It was also the case that the criteria of interview in the selection process was prescribed in the advertisement itself and in fact 30 marks were earmarked for the same. The selection committee gave 70% weightage to the marks obtained in the written test. Furthermore, the selection committee was headed by the Secretary, CBSE and consisted of representative of the Ministry of MHRD and Director, ZIET, Gwalior. It was also the case that pursuant to the assessment of various candidates in the interview it was clear that some of the candidates who secured high marks in the written test could not fare well in the interview, resultantly they could not get selected. Similarly, the candidates, who secured less marks in the written test, had fared well in the interview process leading to their selection.

6. The submission of Mr. G.L. Verma, learned counsel appearing for the petitioner is twofold; firstly that the respondent No.1 has changed the rules of the selection process after the declaration of the result in the written test. According to him, the interview was not part of the selection process. This according to him has resulted in the persons who have not fared well in the written test, succeed in the selection process and resultantly getting appointed to the post in question. Secondly, he submits that the



very fact that persons who have fared well in the written examination were given marks as less as 2/5 marks out of 30 in the interview process as against those persons who have not fared well in the written test were given 29 / 25 marks out of 30 marks in the interview process, clearly demonstrate arbitrariness, unfairness and illegality, vitiating the whole process, which should entail the cancellation of appointments.

7. On the other hand Mr. Anil Shrivastav, learned counsel appearing for the respondent No.1 (CBSE) would justify the order of the Tribunal. According to him, though the petitioner may have fared well in the written test, but she has not fared well in the interview process, resultantly getting less marks in the interview which ultimately resulted in her non-selection. Therefore, he seeks the dismissal of the writ petition.

8. Having heard the learned counsel for the parties, the short issue which arises for consideration is whether the Tribunal was justified in rejecting the OA. The answer to the same has to be in affirmative. This we say so, insofar as the first plea of Mr. Verma that as per the initial advertisement, the selection process only included the written test and not the interview process is negated by the fact that on perusal of the relevant part of the advertisement placed on record, which we also reproduce as under, it is clear that that interview was also a part of the selection process. The relevant instructions in the advertisement, which are at page 54 (Annexure-A2) of the paper book, as well as in the complete advertisement appended as Annexure R-1 to the reply filed by the respondent



No.1 herein before the Tribunal, indicates that interview was indeed part of the selection process.

- “Note: (i) The number of vacancies may increase or decrease.
(ii) The management reserves the right to short list the candidates on merit, experience, written and / or skill test.
(iii) Reservation for SC/ST/OBC/PWD/Ex Serviceman will be as per Govt. of India Rules
[iv] Relaxation in age limit will be as per Govt. of India rules which is presently as follows:
a. SC/ST - 5 Years
b. OBC - 3 Years
c. PWD - 10 Years
d. Ex serviceman/Women - 10Years

Maximum age shall be reckoned as on fast date of closing of application.

1. Online applications can be uploaded on www.cbse.nic.in. within 30 days from the date of publication of this advertisement.
2. An application fee of Rs. 500/- shall be payable online (bank e-challan) by the male candidates of General and OBC Categories for Direct Recruitment and Contractual basis posts.
3. An application fee of Rs. 250/- is payable online (bank e-challan) by the Women candidates, of General and OBC Categories for Direct Recruitment and Contractual basis posts.
4. SC/ST/PWD/Ex Servicemen and Regular Departmental candidates are exempt from paying application fee.
5. No fee is payable for the posts to be filled on deputation.
6. **Copies of certificates are not to be uploaded. The same shall be verified at the time of interview.**
7. Submission of false information shall lead to cancellation of application.
8. All the communication with the candidates will be made via email only.
9. For details please visit www.cbse.nic.in.

-SD-

(Joint Secretary (A&L))”
(emphasis supplied)

GENERAL CONDITIONS FOR UPLOADING THE APPLICATIONS
Special Instructions for candidates applying on
Deputation/Absorption posts:-

The candidates should make an online application and print out of the same should be sent through proper channel within 30 days of publication of vacancies alongwith following documents:



- No Objection Certificate/Cadre Clearance Certificate.
- Attested photocopies of APAR/ACRs for the preceding 05 years.
- Certificate to this effect that no vigilance case is pending / contemplated against the officer.
- List of Penalties (if any) imposed during preceding 10 years.
- Applications received through proper channel only will be considered.

1. **The Board reserves the right to fix the criteria viz. screening test / qualification / experience etc. to shortlist the candidates to be called for interview.**

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Note:

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3. **At the time of written examination / interview, if a candidate is found guilty of using unfair means or impersonating or misbehaving in the examination hall / interview hall or taking away the question booklet, answer sheet, from the examination hall; or resorting to any other unfair means in connection with his / her candidature for the selection; or obtaining support of his / her candidature by any means, such candidate will be liable to criminal prosecution and disqualified from the examination / interview either permanently or for a specific period from any examination or selection by the Board.**

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6. **Decision of the Board in all matters regarding eligibility of the candidate, the stages at which such scrutiny of eligibility is to be undertaken, the documents to be produced for the purpose of the conduct of interview, selection and any other matter relating to recruitment will be final and binding on the candidate. Further, the Board reserves right to stall /cancel the recruitment partially / fully at any stage during the recruitment process at its discretion, which will be final and binding on the candidate.**

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8. Board may, at its discretion, hold re-examination / re-interview wherever necessary in respect of a centre / venue / specified post or candidate / s.

9. The successful candidate in written test are required to submit all the documents pertaining to age, qualification, experience, caste etc. at the time of interview for verification. If any candidate from ineligible while verifying the documents, shall not be allowed to take up interview.

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16. Candidates shortlisted in the written test (if required for the post) shall be called for the interview as the case may be, at specified date, time and place. Before the interview, candidate shall have to produce the following documents (in original) along with their self attested photocopies.

xxx

xxx

xxx

-SD-
(Joint Secretary (A&L))
(emphasis supplied)

9. Having said that, the second issue, as raised by Mr. Verma that persons who have secured less marks in the written test have been selected by getting more marks in the interview process, clearly demonstrate arbitrariness on the part of the respondent No.1 is concerned, the same is also not appealing for the simple reason that the plea of Mr. Verma borders on *malafide* / bias on the part of the Members of the Selection Committee for which the petitioner was required to implead them as respondent(s) in the present petition, so as to enable this Court call for affidavits from the members of the selection committee to answer the plea of the petitioner as to how the selectees who have secured less marks in the written test could get 29/25 marks out of 30 marks in the



interview process. She having not done that, the plea of Mr. Verma cannot be accepted.

10. Therefore, in the conspectus of the facts of this case, we are of the view that the present petition needs to be dismissed. It is ordered accordingly.

11. No costs.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

AUGUST 01, 2023/jg