



2023:DHC:7462



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

% **Date of order : 26th September, 2023**

+ **W.P.(C) 9008/2023 and CM APPL. No.34164/2023**

PIYUSH TYAGI

..... Petitioner

**Through: Mr.Siddharth Iyer and Ms.Isha Singh,
Advocates**

versus

KENDRIYA VIDYALAYA SANGATHAN Respondent

**Through: Mr. S. Rajappa and
Mr.R.Gowrishankar, Advocates**

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The petitioner vide the present petition under Article 226 of the Constitution of India seeks the following reliefs:

“I. Issue an appropriate writ, order or direction to Respondent to conduct the interview of petitioner, in light of interview letter dated 03.05.2023, or

II. Issue an appropriate writ, order or direction, directing the Respondent to state the reason for denial of interview of the Petitioner herein, or

III. Pass any other order as this Hon'ble Court may deem fit All of which is humbly prayed.”

2. The relevant facts of the instant petition are reproduced herein:

a) Kendriya Vidyalaya Sangathan (hereinafter “respondent”) vide



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advertisement no. 15/2022, invited applications for recruitment of the teaching staff, non-teaching staff and officers, one such post being Post Graduate Teacher, Computer Science (hereinafter “PGT CS”). The notification stipulated that the candidates applying for the post of PGT CS should possess a degree of B.E or B.Tech (Computer Science/IT) from a recognized University or equivalent degree/diploma from an institution/university recognised by the Government of India.

- b) The petitioner applied for the post of PGT CS and cleared the computer based test (CBT), whereby, he was at serial No. 96 in the “List of Candidates Shortlisted for Interview under Direct Recruitment 2022-23”.
- c) The said interview was supposed to be held on 20th May 2023, and the same was communicated to the petitioner *vide* letter dated 3rd May 2023. The letter stated the exact time of the interview i.e., 8:30AM alongwith a list of all the requisite documents to be carried by the petitioner.
- d) Upon reaching the interview venue, the petitioner was refused to participate in the said interview, without providing a cogent reason. Subsequently, the petitioner made a representation dated 30th May 2023, to the respondent, requesting for an interview and seeking reasons as to why the opportunity was denied to him.
- e) Aggrieved by the arbitrary act of the respondent denying him opportunity to appear in the interview without providing any reason,



the petitioner has preferred the present petition.

3. Learned counsel appearing on behalf of the petitioner submitted that the conduct of the respondent by denying the opportunity to the petitioner to participate in the above said interview round is illegal, arbitrary and against the principles of natural justice.

4. It is submitted that the petitioner is eligible for the post of PGT CS since he possesses all the necessary qualifications as required in the notification no.15/2022.

5. It is further submitted that the petitioner had cleared the CBT and had attained serial No. 96 on the list of the shortlisted candidates for the interview.

6. It is submitted that the petitioner reached the interview venue on time and yet was turned away from the interview process without providing any cogent reason for the same.

7. It is submitted that the said act of the respondent of denying the petitioner his legal right to is not tenable in the eyes of law since no proper justification was provided by the respondent.

8. Hence, in view of the foregoing submissions, it is prayed on behalf of the petitioner, that the present petition may be allowed, and the reliefs may be granted as prayed.

9. *Per Contra*, learned counsel appearing on behalf of the respondent vehemently opposed the present petition and submitted that the same may be dismissed at the outset since an alternative remedy lies before another forum and in view of the same, the instant petition is not maintainable.



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10. It is submitted, without delving into the merits of the case that the present petition must be dismissed at the threshold, as the jurisdiction to adjudicate the same lies with the Central Administrative Tribunal (hereinafter “CAT”).

11. It is submitted that the respondent organization is autonomous and has been established with an objective to cater to the educational needs of children of transferable Central Government employees including defence personnel by providing common program of education.

12. It is submitted that the disputes against the respondent are maintainable before the CAT being the Court of the first instance and the same cannot be entertained by this Court under its extraordinary writ jurisdiction.

13. It is submitted that Section 14 of the Administrative Tribunals Act, 1985 (hereinafter “Act”) provides that all matters pertaining to recruitment shall be decided by the CAT.

14. It is also submitted that Section 28 of the Act provides for exclusion of jurisdiction of all Courts, except the Supreme Court. In connection with the aforesaid provisions it is established the respondent organisation, is placed at Serial No. 34 as per the “List of Corporations/Societies/Other Authorities within the Purview of CAT under Section 14 (2) of the AT Act, 1985”, therefore all service matters concerning the respondent organisation fall within the jurisdiction of the CAT.

15. It is further submitted that “conduction of interview” is well covered under section 14(1) (a) and hence the jurisdiction lies with the CAT. In order



to strengthen his arguments, learned counsel appearing on behalf of the respondent cited cases titled *Kendriya Vidyalaya Sangathan v. Subhas Sharma*, (2002) 4 SCC 145, *Prabhat Ranjan Deo v. Union Public Service Commission and Ors.*, W.P. (C) 3334/2019 dated 13th July 2020 and *L. Chandra Kumar v. Union of India*, (1997) 3 SCC 261.

16. In view of the foregoing discussions, it is submitted that the present petition is not maintainable and is liable to be dismissed.

17. Heard the learned counsels appearing for the parties and perused the record.

18. It is the case of the petitioner that he was shortlisted for the interview process, however was turned away from the same without any reason or explanation for the same by the respondent.

19. However, learned counsel appearing on behalf of the respondent out rightly submitted that the present petition is not maintainable and the jurisdiction to adjudicate matters that pertain to recruitment such as the instant petition, lie with the CAT.

20. As per the material on record, it has been submitted that the present petition is not maintainable in view of Sections 14 and 28 of the Administrative Tribunals Act, 1985. In order to adjudicate the present petition the aforesaid Sections are reproduced herein:

“14. Jurisdiction, powers and authority of the Central Administrative Tribunal.—(1) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day



*by all courts (except the Supreme Court 2***) in relation to—
(a) recruitment, and matters concerning recruitment, to any
All-India Service or to any civil service of the Union or a civil
post under the Union or to a post connected with defence or in
the defence services, being, in either case, a post filled by a
civilian; ...”*

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“28. Exclusion of jurisdiction of courts except the Supreme Court under article 136 of the Constitution.—On and from the date from which any jurisdiction, powers and authority becomes exercisable under this Act by a Tribunal in relation to recruitment and matters concerning recruitment to any Service or post or service matters concerning members of any Service or persons appointed to any Service or post, 3 [no court except— (a) the Supreme Court; or (b) any Industrial Tribunal, Labour Court or other authority constituted under the Industrial Disputes Act, 1947 (14 of 1947) or any other corresponding law for the time being in force, shall have], or be entitled to exercise any jurisdiction, powers or authority in relation to such recruitment or matters concerning such recruitment or such service matters.”

21. A bare reading of the abovementioned provisions makes it clear that Section 14 of the Act essentially deals with the jurisdiction and power of the CAT. The same further illustrates the nature of matters that may fall within the jurisdiction of the CAT. Section 14 (1) (a) specifically deals with matters related to and concerning recruitment. In the present case, the petitioner is seeking this Court’s intervention with regard to conduction of interview, which is admittedly a part of the recruitment process, hence stands well covered by Section 14(1) (a).

22. Subsequently, Section 28 of the Act is concerned with the exclusive



jurisdiction of the Tribunal. It essentially states that service matters that fall within the jurisdiction of the Tribunal are beyond the jurisdiction of the High Courts. A combined reading of both Sections together with the fact of the present makes it evident that the petitioner's prayer concerning conduction of interview is squarely covered by Section 14(1) (b) thereby, making it a service matter, therefore falling under the jurisdiction of the CAT.

23. Further, the learned counsel appearing on behalf of the respondent cited case titled ***Kendriya Vidyalaya Sangathan (Supra)***, whereby, the Hon'ble Supreme Court observed that matters of service would directly come under the jurisdiction of CAT and such writ petitions cannot be adjudicated by the High Court.

24. It is thus well established that the jurisdiction of matters related to services are to be entertained by the CAT. It is a well settled principle that the High Courts are not the Court of 'first instance' and the Tribunals are not an alternative remedy that the aggrieved may approach. In matters related to services, the Tribunal is the only forum available to the petitioner. It is not a matter of choice or discretion; moreover it is concerned with the procedure established by the law.

25. The Hon'ble Supreme Court in case titled ***Union of India v. Parma Nanda, (1989) 2 SCC 177***, observed that the powers of the High Courts under Article 226 are delegated to the Tribunal established by the Act insofar as they are exercised in connection to service matters. The Tribunal is also granted the authority of other regular civil courts to hear all civil lawsuits, with the exception of those whose filing is expressly or implicitly



prohibited from their consideration. The relevant paragraph of the abovementioned case has been reproduced herein:

“15. The expression “all courts” in this connection includes civil courts and High Court but not the Supreme Court. The powers of the Supreme Court for obvious reasons have been expressly kept undisturbed. The powers of the High Courts under Article 226, insofar as they are exercisable in relation to service matters stand conferred on the Tribunal established under the Act. The powers of other ordinary civil courts in relation to service matters to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred also stand conferred on the Tribunal.”

26. Adverting to the facts of the present case, it has been contended by the petitioner that he had applied for the post of PGT CS and was shortlisted for the interview to be held on 20th May 2023; however, upon arriving for the interview, the petitioner was turned away without providing any reason for the same. Since the present matter pertains to recruitment it is covered under Section 14 (1) (a) of the Act and therefore, cannot be decided by this Court.

27. As discussed above, the CAT has exclusive jurisdiction on matters that are related to service and the High Court cannot intervene and adjudicate the same. This Court can only interfere in cases, wherein, there exists a violation of a fundamental right, which is not the case herein. The present case is only related to the process of recruitment, and hence cannot be adjudicated by this Court.

28. As per the aforesaid discussions, it has been established that the appropriate forum to adjudicate the present petition is the CAT. The power



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of the High Court to interfere in service matters is limited to cases, wherein, a Statute has been challenged for being *ultra-vires* or arbitrary or if there is a gross violation of a fundamental right. Therefore, the CAT becomes the Court of 'first instance', thereby having the competence as well as the jurisdiction to adjudicate service matters.

29. Bearing in mind the aforesaid, this Court is of the view that, the present petition falls within the jurisdiction of the CAT, therefore cannot be decided by this Court in view of Section 14 and 28 of the Act.

30. Accordingly, the instant petition stands dismissed since the same is not maintainable.

31. Pending applications, if any, also stand dismissed.

32. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

SEPTEMBER 26, 2023
SV/DS/RYP