



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

% *Date of decision: August 16, 2023*

+ W.P.(C) 9983/2023
RAJNI

..... Petitioner

Through: Mr. Anuj Aggarwal, Mr. Narendra
Pratap and Ms. Shradha Adhikari,
Advs.

versus

DELHI SUBORDINATE SERVICES
SELECTION BOARD & ANR.

..... Respondents

Through: Mrs. Avnish Ahlawat, Standing
Counsel, GNCTD (Services) with
Mr. Nitesh Kumar Singh,
Ms. Laavanya Kaushik, Ms. Aliza
Alam, Mr. Mohnish Sehrawat, Advs.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

1. The writ petition has been filed by the petitioner challenging the order dated November 21, 2022 of the Central Administrative Tribunal, Principal Bench. New Delhi in O.A. 2760/2021 and also order dated March 21, 2023 passed by the Tribunal in Review Application No.36/2023 whereby the Tribunal has dismissed the O.A. and the Review Application, respectively.

2. The only challenge to the orders of the Tribunal is with regard to the fact that the petitioner's Tier-II paper for appointment to the post of TGT (Social Science) (Female) has not been evaluated.



3. The Tribunal has rejected the O.A. by stating in paragraph 4 as under:-

“4. We have heard the learned counsels for the parties and have also gone through the documents on record. We are not convinced that the applicant has any justifiable reasons to explain the delay of seven years in filing the O.A. The impugned result notice makes a clear statement that if any candidate has any objection regarding his/her non inclusion in the list etc., he/she may represent to the Board in this context.”

4. The Tribunal has rejected the O.A. primarily on the ground of delay.

5. The submission of Mr. Anuj Aggarwal with regard to delay is that the petitioner was only able to procure the relevant information with regard to the selection to the post concerned through applications under the RTI Act, only in the year 2021 and immediately thereafter, the petitioner had approached the Tribunal with aforesaid O.A. He submits that there is a justifiable reason for the petitioner to approach the Tribunal in the year 2021 and the Tribunal could not have rejected the O.A. on the ground of delay.

6. On the last date of hearing, we had recorded the submission as advanced by Mr. Aggarwal. Today, Mr. Satnam Singh, Secretary, DSSSB is present in Court along with the relevant record.

7. We have heard Mr. Aggarwal and Mrs. Ahlawat on the writ petition. The only submission of Mr. Aggarwal today is that though the petitioner had secured 44 marks, she should have been given 45 marks, which enables the evaluation of her Tier-II answer sheet. In this regard, he would submit that the petitioner has rightly



answered/marked/bubbled question No.54 as 'A' but was not given any mark.

8. Mrs. Ahlawat who has placed before us the OMR sheet of the petitioner would submit that the question No.54 was not bubbled properly, as the petitioner had earlier bubbled 'B' as the answer to the question which she later erased and substituted the answer as 'A'. The computer could not pick up the answer bubbled as 'A'; therefore the marks secured by the petitioner are 44. She also states that there is a clear instruction in the OMR sheet that the candidate must mark his/her response after careful consideration as it is not possible to change the answer/response once it is marked/bubbled. She also states that the candidate was required to bubble only one answer/circle/alphabet and if more than one answer/circle/alphabet is shaded, it will be treated as wrong answer. Furthermore, she also states that the instructions on the OMR sheet also include that evaluation of answer sheet will be done on the computer. The candidates should not make any stray marks on the answer sheet, tamper with or mutilate, otherwise it will not be evaluated.

9. Mrs. Ahlawat states though answer to question No.54 may be correct but the same having not been evaluated cannot be considered for the purpose of computing the marks. We agree with the submissions made by Mrs. Ahlawat.

10. On a perusal to original OMR sheet, it is clear that the petitioner (against question No.54) appears to have answered/bubbled the question as 'B' but later erased it and marked it 'A' as the correct



answer, because of which the alphabet 'B' got erased completely resulting in the computer not evaluating the answer at all.

11. Mr. Aggarwal does not dispute the fact that, if question No.54 is not evaluated, the petitioner had rightly got 44 marks. If that be so, 45 marks being the cut off marks for SC candidate and petitioner's marks being 44, the petitioner's Tier-II answer sheet could not have been evaluated.

12. We must also state that since public interest is involved in conducting an exam, it needs to be ensured that the process is fair, transparent and instructions are uniformly followed as per relevant rules. A level field needs to be provided to all the candidates, which may be universally applicable, without finding favour with any particular candidate. The mandatory instructions for marking the answer sheet without erasure or correction were fundamental and required to be followed by each candidate. As such, the aspect of bubbling a correct response in the answer sheets without correction or erasure lay on the petitioner, since the answer sheets are evaluated by Optical Mark Recognition (OMR). No error can be attributed to computer based checking system since the response in the present case was changed by the petitioner after erasure of initial response. In case the answer sheet of petitioner is permitted to be re-evaluated in an individual case on manual basis, it may result in violation of principle of equality and may lead to arbitrariness. This would put a question mark on the process of checking in respect of other OMR sheets, leading to distrust about the entire selection process.



13. We do not see any reason to interfere with the impugned order of the Tribunal, more so when the challenge is on a solitary ground as noted and considered above.

14. The petition is dismissed.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

AUGUST 16, 2023*/ds*