



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

% *Date of decision: August 22, 2023*

+ W.P.(C) 11107/2023

RITA CHAUDHARY

..... Petitioner

Through: Mr. R. K. Shukla and Ms. Nisha
Maurya, Advs.

versus

GNCTD & ORS.

..... Respondents

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

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 February 16, 2023 in O.A. 3884/2016 whereby the Tribunal has dismissed the O.A. filed by the petitioner.

2. The case of the petitioner before the Tribunal was that the DSSSB invited applications to fill the posts of Nursery Teacher in NDMC and MCD under post code 146 and 147 in the year 2002. The petitioner appeared in the written examination as an OBC candidate and result of the written examination was declared on



March 11, 2005 and on April 07, 2008, respectively. The petitioner was found successful in the written examination.

3. It is stated by Mr. N. K. Singh that against 23 vacancies, five times the candidates under the OBC category were called upon to upload their documents.

4. It is his case that persons securing 49 marks and above were appointed as Nursery Teachers against the OBC category (against the post code 147). It may be stated here that the petitioner had not applied for the post code 146.

5. The Tribunal while rejecting the O.A. noted the stand taken by the respondents herein in paragraphs 4.6 to 4.8 wherein it is *inter alia* stated that the petitioner could not be selected as she had obtained 47 marks. The last selected candidate under OBC category had got 49 marks. The paragraph 5 of the Tribunal's order reads as under:-

“5. Learned counsel for the respondents submits that the applicant has obtained 47 marks whereas selected candidates in OBC category obtained 49 marks. This is submitted oath by the respondents by filing counter affidavit. However, applicant fails to prove anything contrary to this.”

6. The plea of Mr. R. K. Shukla, learned counsel appearing for the petitioner is that the whole selection was actuated by manipulation by the DSSSB.

7. On a specific query as on what basis the petitioner has set up the case of manipulation, he submits that, initially, it was the stand of the respondents that the record of the selection is not



traceable but later during the pendency of the proceedings before the Tribunal they traced and produced the record.

8. There is no dispute that the selection process was initiated in the year 2002. The final result was declared in the year 2008. The petitioner had filed the RTI application only in the year 2015. The O.A. was filed in the year 2016. Along with their reply, the respondents had produced the result sheet before the Tribunal (even before this Court) wherein the name of the petitioner is mentioned at serial No.77 with Roll No.11002134, having secured 47 marks. There are candidates who are placed above the petitioner, who have secured 49, 48 and even 47 marks respectively. He submits that some candidates having secured 49 marks were not appointed as they were beyond the vacancy position.

9. The only ground put forth by Mr. Shukla to challenge the selection process is manipulation by the DSSSB.

10. Suffice to state that Mr. Shukla has not justified the plea of manipulation by the DSSSB. Merely because the records were not available initially, but were later produced before the Tribunal, cannot be a ground of manipulation. The marks secured by the petitioner have been shown to be 47 as against the last candidate appointed, securing 49 marks.

11. We find that candidates who had secured 48 and 47 marks and have been placed above the petitioner were also not appointed. In fact, they had prior right to be appointed. Moreover, Mr. Shukla has not contested the marks obtained by the petitioner. It is



a fact that the petitioner has for the first time filed application under RTI in the year 2015. In other words, the challenge to the process which culminated in the year 2008 was initiated in the year 2015. The OA was filed in the year 2016. It was too late for the petitioner to challenge the selection process that too when she was much below in the select panel, which was not operated after the appointment of candidate (s) securing 49 marks.

12. We find that the Tribunal was justified in rejecting the O.A.

13. The petition is dismissed.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

AUGUST 22, 2023/ds