



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

% *Date of decision: October 20, 2023*

+ W.P.(C) 13977/2023, CM APPLs. 55185/2023 & 55186/2023

(30) DELHI DEVELOPMENT AUTHORITY Petitioner
Through: Mr. Sanjay Katyal, SC with
Ms. Chand Chopra, Mr. Nihal Singh
and Mr. Gautam Yadav, Advs.
versus

GIRESH CHAUDHARI Respondent
Through: Mr. Shailendra Tiwari, Adv.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

CM APPL. 55186/2023 (for exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 13977/2023, CM APPL. 55185/2023

1. This petition has been filed by the Delhi Development Authority ('DDA', for short) challenging the order dated February 28, 2023, passed by the Central Administrative Tribunal, Principal Bench, New Delhi ('Tribunal', for short) in Original Application No.2938/2021, ('OA', for short) whereby the Tribunal has allowed the OA filed by the respondent herein, by directing the petitioner / DDA to declare the result of the respondent and if selected, he should be considered for appointment against the vacancy of Sr. Law Officer



advertised for PwD (VH) category candidate in terms of notification No. 01/2020, by stating in paragraphs 9 to 11 as under:

“9. The notification for Advertisement No. 01/2020 was issued to fill up one vacancy of Sr. Law Officer from PwD (VH) category candidates. It is the case of the respondent that the vacancy in SC category has not been filled up in the selection that took place in terms of Advertisement No. 01/ 2019 and thus, the vacancy advertised vide Advertisement No. 01/2020, only for PwD (VH) candidates was incorrect and the same should have been SC-PwD (VH), in order to take care of the reservation for PwD (VH) out of the three posts of 2019 out of which one unfilled vacancy was carried forward and advertised vide 01/2020. It is further confirmed in the counter affidavit that the candidates selected against the UR post, as Sr. Law Officer, in terms of the recruitment notice 01/2019 did not join and thus, this UR vacancy is now available. The present position now is that with the recommendations of National Commission for Scheduled Castes, the SC vacancy has already been filled up by one Shri Mukul Gautam, the OBC candidate has also joined, however, due to non- joining of UR candidate, the said post in UR category is vacant. It is also noticed that Advertisement No. 01/2020 required Sr. Law Officer from the category of PwD (VH). In view of these developments and one vacancy for UR candidate becoming available, the applicant who is UR, PwD (VH) candidate, if selected, was to be considered.

10. In view of aforementioned developments, there was no need for the respondent to scrap the selection process in order to indicate vacancy in SC category for PwD (VH) candidate. The SC vacancy has already been filled up in terms of recommendations of National Commission for



Scheduled Castes at the same time due to non-joining, the vacancy of UR candidate remains. The notification for PwD (VH) against which the applicant was shortlisted and interviewed, is also for UR category and not that of SC. This whole exercise of scrapping the selection process undertaken by the respondent is, thus, casually and hurriedly done without application of mind. On the one hand, they have adjusted the SC candidate on the recommendations of the National Commission for Scheduled Castes post recruitment and, on the other hand, without ascertaining whether the vacancy of UR candidate becomes available in PwD (VH), the respondent decided to scrap the selection, in which the applicant had already been shortlisted and interviewed. With availability of UR – PwD (VH) vacancy, the selection against the notification No. 01/2020 should be carried to its logical conclusion and the result of candidate to be declared and if he is selected, his appointment to the post of Sr. Law Officer should be considered.

11. We, therefore, find that there is no justification for the respondent in scrapping the selection process. The present OA is, therefore, allowed. The notice dated 06.09.2021 and impugned order dated 28.09.2021 are quashed and set aside. The respondent is directed to declare the result of the applicant and if selected, he should be considered for appointment against the vacancy of Sr. Law Officer advertised for PwD (VH) category candidate in terms of notification No. 01/2020. This exercise shall be completed within a period of 2 months from the date of the receipt of copy of this order. No order as to costs.”

2. The submission of Mr. Sanjay Katyal, learned Standing Counsel appearing for the petitioner is that the Tribunal has erred in



directing the petitioner, in the manner it has done in the impugned order, overlooking the fact that the petitioner has scrapped selection process strictly in accordance with its policy as the vacancy for PwD (VH) should have been notified under the SC category. The Tribunal could not have overlooked the policy to grant the relief, as the same is not permissible in the given facts.

3. According to Mr. Katyal, the Tribunal does not hold that the DDA has committed any illegality or violated its own rules, regulations and policy while scrapping the advertisement No.01/2020.

4. He also submits that the post which was reserved for PwD (VH) candidate and notified under Direct Recruitment vide the advertisement No.01/2019/Rectt/Cell, stands filled with a SC candidate on the basis of recommendations of the National Commission for Scheduled Caste, owing to which the vacant post of PwD (VH) was re-notified. According to him, the advertisement No.01/2020 was issued to fill up one vacancy of Sr. Law Officer from PwD (VH) category candidates. It is the case of the DDA that the vacancy in SC category under PwD (VH) has not been filled up in the selection that took place in terms of advertisement No.01/2019. The vacancy was re-advertised only for PwD (VH) which was incorrect and the same should have been SC-PwD (VH) in order to take care of the reservation for SC-PwD (VH).

5. We are not impressed by the submissions made by the learned counsel for the petitioner for the simple reason that the respondent had applied for the post of Sr. Law Officer reserved for PwD (VH) category. The respondent is PwD (VH) and therefore, he applied under the category of PwD (VH). He appeared in the computer based



examination on November 09, 2020 and was shortlisted for interview on the basis of the result of the examination on February 03, 2021. He also appeared in interview held on August 31, 2021. The result of the selection was, however, not declared instead the petitioner vide notice dated September 06, 2021 scrapped the selection process for the said post. It is clear that the scrapping of the selection process was after the last stage for selection i.e., interview.

6. In the notice through which the selection process was scrapped, reference has been made to the notification for filling up the vacancies of Sr. Law Officer dated December 23, 2018, in which three posts - one for UR, one for SC and one for OBC, were to be filled and out of these, one post was reserved for PwD (VH) category candidate. As no candidate could be selected against the reserved post for PwD (VH), the same was carried forward as a 'backlog reserved vacancy'. Vide Advertisement 01/2020, this vacancy was re-notified, however, as per petitioner, the category for the post as 'SC' could not be mentioned and therefore, the selection process had been scrapped.

7. The plea that the advertisement for PwD (VH) candidate was incorrect and the same should have been SC-PwD (VH), in order to take care of the reservation for SC-PwD (VH) is untenable. The same is because PwD (VH) is a horizontal reservation which can be filled by any candidate of any category, if successful on merit. Hence, the plea of Mr. Katyal that the candidate from SC PwD (VH) was to be appointed is rejected.

8. We agree with the conclusion drawn by the Tribunal in paragraphs 9 to 11 which we have reproduced above, directing the



declaration of the result of the respondent and appointing him, if selected. In the facts of this case, we do not see any reason to interfere with the impugned order passed by the Tribunal. The writ petition and connected application are dismissed. No costs.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

OCTOBER 20, 2023/aky