



2024:DHC:10126-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 17711/2024, CM APPL. 75351/2024 & CM APPL. 75352/2024

GOVT OF NCT OF DELHI AND ORSPetitioners
Through: Mrs. Avnish Ahlawat, SC with
Mr. Nitesh Kumar Singh, Ms. Laavanya
Kaushik, Ms. Aliza Alam and Mr. Mohnish
Sehrawat, Advs.

versus

SHABANA PARVEENRespondent
Through:

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER (ORAL)
23.12.2024

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C. HARI SHANKAR, J.

1. The respondent competed with others for recruitment to the post of PGT¹ (Economics) Female, following Advertisement No. 02/2010 issued by the Delhi Subordinate Services Selection Board². The examination was conducted on 18 December 2011 and 10 June 2012.

2. There were five unreserved vacancies. The respondent is an unreserved category candidate. The respondent was sixth in merit in the unreserved category. On the ground that no wait list was

¹ Post Graduate Teacher

² DSSSB



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maintained by the petitioners, the respondent was not included in the merit list but is undisputedly the first candidate on merit after the fifth candidate who was included in the merit list.

3. Subsequently, it is stated that one Nisha was found to be ineligible but that the respondent would not be accommodated as no wait list was maintained.

4. This aspect has been considered by the Central Administrative Tribunal³ in its earlier order dated 18 September 2014 in OA 2574/2013. The Tribunal has noticed that, even if the petitioner was not maintaining a wait list, the ineligible and eligible candidates could not have been considered together. As Nisha was subsequently found to be ineligible, the respondent ought to have figured in the list of five eligible candidates in the merit list.

5. We queried of Mr. Singh as to whether the ground on which Nisha was found to be ineligible was something which came to the notice of the petitioners after the merit list was drawn up. Mr. Singh has drawn our attention to the rejection notice dated 13 February 2013 of Nisha, which may be reproduced thus:

“OFFICE ORDER NO.:312
DATED: 13/2/13

REJECTION NOTICE
POST GRADUATE TEACHER
(POST CODE- 32/10)
PGT (Economics)(Female)
DTE. OF EDUCATION, GOVT. OF NCT OF DELHI

³ “Tribunal” hereinafter



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In continuation of office order No. 289 dated 17.08.2012, the following candidate, whose candidature in the said office order was kept pending for want of documents regarding educational qualification/ experience etc. is hereby rejected

PGT(Economics)(Female), Post code-032/10
UR CATEGORY

S.NO	NAME	ROLL NO.	DOB	CAT	REMARKS
1	NISHA	03210652	02.12.85	UR	Mark-sheet issued on 24 th Oct. 2010 i.e. after cut off date. Hence, Not Eligible and Rejected.

The result has been processed keeping in view the eligibility conditions regarding educational qualification/caste certificate as on cut-off date i.e. 30.07.2010.

This issue with the prior approval of the Competent Authority, DSSSB

F.No.4 (376)/DSSSB/CC-I/2012/

Deputy Secretary (CC-I)
Dated:”

6. From the above, it is clear that the ground on which Nisha was found to be ineligible was that she had submitted her mark sheet after the cut-off date of 30 July 2010. The rejection notice was issued by the DSSSB in 2012. There is no explanation as to why, therefore, Nisha was included in the merit list despite her being an ineligible candidate. Mr. Singh's only answer in this regard is that there were a large number of applications and, therefore, proper scrutiny prior to drawing of the merit list was not possible.

7. This, we feel, was not permissible especially in view of the order passed by the Tribunal in OA 1493/2011 dated 29 February



2012.

8. It is clear that, if Nisha had not been included in the merit list, the respondent would have entered in the merit list.

9. As such, Mr. Singh's repeated emphasis on the fact that no wait list was maintained as the instructions for drawing up of a wait list were issued subsequently is tangential to the issue at hand. The issue is not about maintaining or not maintaining a wait list. The respondent's claim was not on the ground that she ought to have been included in the wait list. Her claim was that, if Nisha had not been included in the merit list, *she would have figured at the fifth place in the merit list.*

10. This position is not controverted even on facts.

11. The Tribunal has, in the judgment dated 26 July 2024 under challenge in this writ petition, held that the respondent could not have been considered along with ineligible candidates – i.e, Nisha – and that, if this had not happened, the respondent would have been in the merit list. Resultantly, the Tribunal has allowed OA 2836/2015 filed by the respondent and directed her appointment, if she is otherwise eligible. She has also been directed to be granted appropriate seniority, but has not been awarded back wages, though she has been granted notional fixation of pay.

12. We agree with the Tribunal, and find no occasion to interfere



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with the impugned judgment, which is accordingly upheld in its entirety.

13. The writ petition is accordingly dismissed.

C. HARI SHANKAR, J.

ANOOP KUMAR MENDIRATTA, J.

DECEMBER 23, 2024

vld/ar

Click here to check corrigendum, if any