



2024:DHC:7606-DB



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

+ W.P.(C) 13215/2018

VIKRAM RANA

.....Petitioner

Through: Mr. Rabin Majumder and Mr.
S.S. Rana, Advs.

versus

NORTH DELHI MUNICIPAL CORPORATION

AND ORS

.....Respondents

Through: Ms. Pooja Chandra, Mr. Sumeet
Kaul and Mr. Himanshu Singhal, Advs. for
R-1

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

ORDER (ORAL)

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27.09.2024

C. HARI SHANKAR, J.

1. The impugned order dated 25 July 2018 passed by the Central Administrative Tribunal Principal Bench, New Delhi¹ reads as under:

“Heard the learned counsel for applicant.

2. The applicant has filed the instant OA seeking the following reliefs :-

(I) Issue an appropriate order or direction thereby setting aside the impugned clause 5 of the Circular No.D /ADE/TRC/Edu./2011/1189 dated 23.06.2011;

(II) Declare the impugned action of the Respondent for not allowing the Original Applicant to the post of Teacher (Primary) (Post Code 70/90) pending criminal case is *void*

¹ “the Tribunal”, hereinafter



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ab initio.

(III) Issue an appropriate order or direction thereby directing the Respondents to issue appointment letter/joining letter to the Original Applicant to the post of Teacher (Primary) (Post Code 70/90) along with seniority, continuity of service, full back salary and consequential benefits thereof with effect from July, 2015 in terms of the offer of appointment letter No.D/297/ DDE/RZ/2015/TRC dated 18th June 2015; and

(IV) Declare that the Original Applicant is entitled to equity as well parity as that of Devender Kumar (Roll no.7094141) who has already been appointed to the post of Teacher (Primary) (Post Code 70/90) despite pending criminal case against him appointed by Respondent no.3 (SDMC) vide Appointment Order No.D/ADE/TRC/SDMC/HQ/2017/3819 dated 08.11.2017.

(V) Allow the present application with cost in favour of the Original Applicant.”

3. Counsel for applicant was heard and the impugned Annexure-A/1 dated 23.06.2011 is seen. Quite clearly, point 5 of this circular states “The candidate who are facing criminal trial under any section of IPC or against whom FIR has been registered, will not be given appointment. However, their case will be abeyance for a period of three years on their request supported with an undertaking that they will not claim any Seniority/back wages on getting appointment after acquittal.”

4. From the above circular, it becomes clear that as yet, the candidature of the applicant has not been closed and hence, no cause of action has arisen in this matter. The applicant can avail his remedies after the final order is passed with regard to his candidature.

5. Accordingly, the OA stands dismissed. No costs.

6. All pending MAs, if any, stand disposed of.”

2. With respect, it appears that the Tribunal has not appreciated the prayers urged in the OA. The specific prayer of the petitioner, as the applicant before the Tribunal, was to set aside Clause 5 of the



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circular dated 23 June 2011 as well as the action of the respondents in not appointing the petitioner to the post of Teacher (Primary), based on the aforesaid circular, to be illegal.

3. The Tribunal has, however, not adverted to the merits of the case at all. Rather, somewhat paradoxically, the Tribunal has held that, as the Circular stands issued, there is no cause of action in favour of the petitioner.

4. This is obviously an erroneous decision. The Tribunal has necessarily to consider and take a view on the petitioner's prayers one way or the other.

5. Accordingly, the impugned order dated 25 July 2018 passed by the Tribunal is quashed and set aside. The OA is remanded to the Tribunal for a decision afresh.

6. In order to expedite matter, both parties would appear before the Tribunal on 15 October 2024. The Tribunal is requested to decide the matter as expeditiously as possible, preferably within a period of six months.

C.HARI SHANKAR, J.

DR. SUDHIR KUMAR JAIN, J.

SEPTEMBER 27, 2024/aky

[Click here to check corrigendum, if any](#)