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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

*Date of decision: 03.07.2025*

+ W.P.(C) 149/2021  
GOVT OF NCT OF DELHI & ORS.

.....Petitioners

Through: Mrs.Avnish Ahlawat,  
SC/GNCTD (Service) with  
Mr.N.K. Singh, Ms.Aliza Alam,  
Mr.Mohnish Sehrawat & Mr.A.  
Chadha, Advs

versus

RAHUL SHROTRIYA

.....Respondent

Through: Mr.M.K. Bhardwaj, Adv

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**HON'BLE MS. JUSTICE RENU BHATNAGAR**

**NAVIN CHAWLA, J. (ORAL)**

1. This petition has been filed challenging the order dated 16.12.2020 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No. 1296/2020, titled ***Rahul Shrotriya v. Govt. of NCT of Delhi & Anr.***, allowing the said O.A. filed by the respondent herein and setting aside the Order dated 03.09.2020 passed by the petitioner no. 3 herein by which the appointment of the respondent had been terminated. The petition also seeks discharge of the notice issued to the petitioners by the learned Tribunal in CP No. 227/2020 for alleged violation of an *interim* Order dated 15.09.2020 passed in the OA.



2. To give a brief background of the facts in which the present petition arises, the petitioner no. 2 had issued advertisement No. 04/17 dated 20.12.2017, calling for applications for various posts, including for the Post Code 135/17, that is, TGT (Natural Science) Male, for a total of 222 posts, (UR-143, OBC-33, SC-31, ST-15), including PH-6 (VH-03 and OH-3)”
3. The respondent applied under the UR (PH) (OH) category and, having been declared successful in the result declared on 28.05.2019, was offered the appointment on 15.10.2019 by the petitioner no. 3. Another candidate, that is, Shri Jitender, aggrieved by the fact that though he had secured more marks than the last candidate, that is, the respondent herein who was appointed to the above post, but had not been offered appointment, first made a representation dated 10.10.2019 to the petitioners and, having received no response thereto, filed O.A. No. 3405/2019 before the learned Tribunal.
4. The learned Tribunal, by its Order dated 04.12.2019, disposed of the said O.A., directing the petitioners herein to pass an order on the representation dated 10.10.2019 of Shri Jitender within a period of three weeks from the receipt of a copy of the Order.
5. Realizing its folly, because of which Shri Jitender had been wrongfully excluded from the offer of appointment in spite of securing more marks than the respondent herein, the petitioner no. 2 revised the result and issued a Supplementary Result No. 599 dated 13.02.2019, now showing Shri Jitender as having qualified, while the respondent being in the waitlist.
6. On the basis of this revised list, the petitioner no. 3, without any



notice to the respondent, issued the Order dated 03.09.2020, cancelling the appointment of the respondent. Aggrieved thereof, the respondent filed the above O.A. before the learned Tribunal.

7. The learned Tribunal *vide* an *interim* Order dated 15.09.2020 stayed the supplementary result dated 13.02.2020 and the cancellation of appointment order dated 03.09.2020. Subsequently, the respondent also filed CP. No. 227/2020 for violation of the aforementioned Order by the petitioners.

8. The learned Tribunal has, *vide* the Impugned Order, allowed the above O.A. by, *inter alia*, holding that there was a violation of the principles of natural justice inasmuch as no notice was issued to the respondent before cancelling his appointment. The learned Tribunal further held that the respondent herein having been already appointed, the petitioner no. 2, as the selecting agency, can only bring it to the notice of the User Department, that is, the petitioner no. 3, that there was a mistake in the declaration of the result, and leave it to petitioner no. 3 to act in accordance with law; the selecting agency cannot appropriate to itself the power to discontinue from service a candidate who had already been selected. The learned Tribunal further directed that the contempt case, that is, CP. No. 227/2020 be decided separately.

9. Aggrieved by the above, the petitioners have approached this Court by way of the present petition.

10. The learned counsel for the petitioners submits that there is no dispute of the fact that Shri Jitender secured more marks than the respondent in the selection process. Placing reliance on the Judgment



of the Supreme Court in ***State of Odisha and Others v. Kamalini Khilar and Another***, (2021) 6 SCC 546, she submits that in similar circumstances, the cancellation of the appointment of the candidate, who otherwise would not have made the selection but for a mistake committed by the Selection Agency, was upheld by the Supreme Court.

11. She further submits that presently there is no vacancy against which the respondent can be adjusted, and, in this regard, she places reliance on the additional affidavits dated 23.10.2021 and 10.09.2022 filed by the petitioner no. 2.

12. On the other hand, the learned counsel for the respondent submits that in this entire episode, the respondent was not to be blamed. The respondent was offered the appointment, which he accepted, and was eventually appointed on 15.10.2019 to the post. After the expiry of almost one year, without any prior notice, the appointment of the respondent was cancelled, and the only reason supplied was the revision of the result by the petitioner no. 2. He submits that petitioner No. 2 became *functus officio* once the result had been declared by it and could not direct the cancellation of the respondent's appointment.

13. He submits that there was also a violation of the principles of natural justice, inasmuch as no notice was issued to the respondent before the passing of the Impugned Order dated 03.09.2020. He submits that the Judgment in ***Kamalini Khilar*** (supra) would not be applicable to the facts of the present case, inasmuch as therein the appointment of the candidate was cancelled in compliance with the



direction issued by the learned Tribunal which had remained unchallenged.

14. We have considered the submissions made by the learned counsels for the parties.

15. From the above narration of facts and the submissions, it is evident that in this entire episode, the respondent is not to be blamed. It is not the case of the petitioners that it was due to some misrepresentation or misdeed of the respondent that the respondent was offered appointment and was eventually appointed to the post under the UR (PH) (OH) category for an unreserved candidate. The mistake was solely at the hands of the petitioner no. 2.

16. Shri Jitender pointed out this mistake in the form of a representation, which also remained unanswered by the petitioners, forcing him to approach the learned Tribunal.

17. It is only pursuant to the direction issued by the learned Tribunal *vide* its Order dated 04.12.2019, passed in O.A. No. 3405/2019, that the petitioner no. 2 realized its mistake and unilaterally revised the result. Without issuing any show cause notice to the respondent, who was already appointed to the post and had worked at that post for almost one year, the Impugned Order dated 03.09.2020 cancelling his appointment was issued in a rather cryptic manner, which we reproduce hereinunder:

**“Cancellation of Appointment of Sh. Rahul Shrotriya to the post of TGT NATURAL SCIENCE (MALE) POST Code 135/17/**

*Whereas, Sh. Rahul Shrotriya, Roll No. 110613500461 has been nominated by the DSSSB for appointment to the post of TGT*



*NATURAL SCIENCE (MALE) against Post Code 135/17 vide Result Notice No. 455 date 28.05.2019 in the Directorate of Education, Govt. of NCT of Delhi. Sh. Rahul Shrotriya, was appointed vide this office order dated DE-3(13)/DRC(E-III)/TGT(N.Sc.)/Male/2019 dated 15.10.2019 with Posting ID : 20190185.*

- *And whereas, the nomination of Sh. Rahul Shrotriya, Roll No. 110613500461 was withdrawn & kept in waiting panel by the DSSSB vide Supplementary Result No. 599 dated 13.02.2019 and requested this office to return the dossier to DSSSB.*

*Therefore, in view of the facts and circumstances as above the candidature of Sh. Rahul Sahrotriya, Roll No. 110613500461 is hereby cancelled and the dossier is returned to the DSSSB.*

*This issue with the prior approval of the Director (Education)."*

18. The Impugned Order, therefore, gave no reason for the revision of the result and why the respondent had been removed from the list of selected candidates and placed in the waiting list.

19. Therefore, there was a violation of the principle of natural justice.

20. Further, we have not been shown a power with the petitioner no. 2 to revise the result. Once it was pointed out to the petitioner no. 2 that it had made a mistake in the declaration of the result by excluding Shri Jitender, who otherwise had secured more marks than the respondent, the proper remedy for the petitioners was to offer the appointment to Shri Jitender and take necessary steps for the same, including creation of a supernumerary post or, if so required, adjust him or the respondent against future vacancies. Admittedly, post the



advertisement in question, further selection processes have been taken by the petitioners, in which posts have been earmarked for the PH(OH) category. Mr. Jitender could have been adjusted against those posts.

21. In fact, had a show cause notice been issued to the respondent before terminating his service, the respondent could have made out a case of how and why the petitioner no. 3 should exercise its power to create a supernumerary post for him or at least adjust his appointment against a future vacancy. By not issuing a show cause notice to the respondent and by not giving him an opportunity of hearing, he has been denied this opportunity.

22. In ***Kamalini Khilar*** (supra), the Supreme Court noted that on the O.A. filed by the candidate who should have been given the offer of appointment, the learned Tribunal had directed that for accommodating the said candidate, the services of the candidate, who had been appointed in her place, may be cancelled. It was in compliance with the said direction that the appointment of the respondent no. 1 therein had been cancelled by the appellant. In the present case, there was no such direction by the learned Tribunal in the O.A. filed by Shri Jitender.

23. It has been pointed out by the learned counsel for the respondent that on being appointed to the post, the respondent had given up other lucrative offers that came his way and now would be over-aged for applying for any post. The respondent, therefore, cannot be made to suffer for the folly of the petitioners.

24. For the reasons stated hereinabove, we do not find it to be a fit



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case for interfering with the direction of the learned Tribunal in exercise of our powers under Article 226 of the Constitution of India.

25. The petition is accordingly dismissed. There shall be no order as to costs.

**NAVIN CHAWLA, J**

**RENU BHATNAGAR, J**

**JULY 3, 2025/rv/ik**

*Click here to check corrigendum, if any*