

(2019) 04 CAT CK 0098

In the Central Administrative Tribunal

Case No : Original Application No. No. 3597 Of 2015

Mithlesh

APPELLANT

Vs

Chief Secretary

RESPONDENT

Date of Decision : 09-04-2019

Acts Referred:

Citation : (2019) 04 CAT CK 0098

Hon'ble Judges : Nita Chowdhury, Member (A), S.N. Terdal, J

Bench : Division Bench

Advocate : Ajesh Luthra, Harvinder Oberoi, Anupama Bansal

Final Decision : Dismissed

Judgement

Nita Chowdhury, Member (A)

1. By filing this OA, the applicant is seeking the following reliefs:-

"a) Quash & Set aside the rejection notice (Annexure-A/1) qua the applicant and direct the respondents to further consider and appoint the applicant to the post of Teacher (Primary) MCD Post Code 70/09 with all consequential benefits.

2. Brief facts of the case are that the DSSSB had advertised 4500 vacancies of Teacher (Primary) bearing Post Code No.70/09 in respect of MCD. The last date of submission of application was 15.1.2010. Thereafter due to upgradation of said post from Group 'C' to Group 'B' in 6th CPC, the user department modified the RRs and sent the revised RRS wherein passing English subject at Secondary or Senior Secondary level was made as compulsory. The vacancy position was also revised from 4500 to 6500 posts. The Board issued addendum in this regard and allowed eligible candidates to apply up to 17.10.2011, but the cut off date for determining eligibility remained the same, i.e., 15.1.2010. The said Board conducted examination of post Code 70/09 on 2.2.2014. The mark list was declared on 8.7.2014 on the basis of eligibility criteria of user department. The result of 2676 candidates was declared on 5.12.2014. Subsequently the result of

502 candidates was declared on 16.4.2015. As per the eligibility/cut off date being 15.1.2010, all the documents should have been issued on or before cut off date.

3. In a similar matter, DSSSB had filed an SLP before the Hon?ble Supreme Court vide SLP No.28948/2016 in the matter of DSSSB vs Praveen Kumar and the issue has been considered by the Apex Court and the Apex Court vide Order dated 11.11.2016 observed as under:-

"10. After rejecting the contentions on merits and upholding the validity of the Recruitment Rules, the Court went into the issue of hardship because of sudden reduction in the upper age limit and only on that ground one time relaxation was given to the petitioners in the said petition. A direction was given to permit all those candidates who had completed the ETE course either in the year 2006 or 2007 or 2008 to appear in the examination. Thus, this was one time relaxation given for the examination which was to be conducted in the year 2008, in order to ameliorate the hardship.

11. Once, we understand the contours and scope of the judgment and directions, it becomes abundantly clear that the said judgment of the High Court in Sachin Gupta's case cannot be made applicable for all times. The respondent herein was not the candidate in the recruitment to the said post in the year 2008. On the contrary, he applied for the post pursuant to the advertisement published in the year 2009. In the impugned judgment the High Court has failed to consider the aforesaid analysis of its earlier judgment in Sachin Gupta's case.

12. We, therefore, allow this appeal and set aside the judgment of the High Court as also that of the CAT."

(emphasis supplied).

4. In view of the above facts and circumstances of the case, the issue involved in this case is confined to the fact that whether the applicant's case is covered by the aforesaid judgment of the Hon?ble Delhi High Court in the case of Sachin Gupta?

5. Counsel for the applicant submitted that applicant's Diploma in Elementary Teaching Training course relates to the years 2007-2008, as the applicant was pursuing her diploma from J&K State Board of School Education, the State being disturbed due to terrorism, exams were conducted late, i.e., 2007 exam was conducted in 2008 and 2008 exam was conducted in 2009 and the said fact is verifiable fact and respondents can well verify the same from the University.

6. On the other hand, counsel for the respondents submitted that while affirming the orders of the Hon?ble Delhi High Court passed in Sachin Gupta's case in SLP No.10824/2016, the Apex Court vide Order dated 11.11.2016 observed that ?A direction was given to permit all those candidates who had completed the ETE course either in the year 2006 or 2007 or 2008 to appear in the examination. Thus, this was one time relaxation given for the examination which was to be

conducted in the year 2008, in order to ameliorate the hardship?. The Apex Court further observed that "The respondent herein was not the candidate in the recruitment to the said post in the year 2008. On the contrary, he applied for the post pursuant to the advertisement published in the year 2009. In the impugned judgment the High Court has failed to consider the aforesaid analysis of its earlier judgment in Sachin Gupta's case." Counsel for the respondents further submitted that admittedly the applicant had applied for the Advertisement published in the year 2009 and as such the only exception carved out by the Court as evident from the aforesaid Order of the Hon?ble Delhi High Court in Sachin Gupta case was in favour of those candidates who had completed their ETC course either in 2006 or 2007 or 2008, is not applicable to the facts of this case as the applicant has admittedly completed his requisite Diploma on 13.5.2009, i.e., after 2008.

7. Having regard to the submissions of learned counsel for the parties, we agree with the contentions of learned counsel for the respondents, as the Hon?ble Supreme Court had already observed in the aforesaid SLP that the same was one time relaxation given for the examination, which was to be conducted in the year 2009, to all those candidates, who had completed the ETE course either in the year 2006 or 2007 or 2008, to appear in the examination, in order to ameliorate the hardship and the same cannot be applied for the post pursuant to the advertisement published in the year 2009. It is admitted fact that applicant applied for the post, which was/were advertised vide advertisement issued in 2009 and she has completed her requisite Diploma only on 13.5.2009.

8. In the result and for the foregoing reasons, we do not find any illegality in the action of the respondents rejecting the candidature of the applicant for the aforesaid post. Accordingly, the present OA is dismissed being devoid of merit. There shall be no order as to costs.