

(2019) 03 CAT CK 0119

In the Central Administrative Tribunal

Case No : Original Application No. 729 Of 2018 With Miscellaneous Application
No. 796 Of 2018

Nazneen Bano

APPELLANT

Vs

Delhi Subordinate Services Selection Board (DSSSB)

RESPONDENT

Date of Decision : 15-03-2019

Acts Referred:

Administrative Tribunals Act, 1985 — Section 21(3)

Citation : (2019) 03 CAT CK 0119

Hon'ble Judges : L. Narasimh Reddy, J; Mohd. Jamshed, J

Bench : Division Bench

Advocate : Anuj Aggarwal, Saurabh Ahuja, Anuj Kumar Sharma, S.N. Verma,
Jagdish N

Final Decision : Disposed Off

Judgement

L. Narasimha Reddy, J

1. The Municipal Corporation of Delhi intended to fill posts of various categories of Teachers including the one of the Teacher Primary (Urdu). The selection process was entrusted to respondent No.1. A notification in this behalf was issued in the year 2013 and the applicant responded to the same. A written test was held and the result thereof was declared on 01.03.2014. The applicant was declared as passed therein, but it was indicated that she must produce the mark sheet of B.Ed.1st and 2nd year and the certificate of B.Ed. This was followed by Rejection Notice dated 08.05.2014. Against the name of the applicant, it was mentioned that she secured 73.50 marks, but she was not selected since she did not appear.

2. The applicant made a representation on 13.05.2014, stating that she could not appear on the specified date, on account of not being aware of the result published on 01.03.2014 and the reasons of ill health. Since no action has been taken thereon, this OA is filed challenging the Rejection Order dated 08.05.2014.

3. The applicant filed a Misc. Application No.796/2018 seeking condonation of delay. It is stated that not only herself but her other family members were also suffering from ill health and that she could not spare time and expenditure to approach the Tribunal, in time.

4. Respondents filed counter affidavit opposing the MA as well as OA. It is stated that the applicant has secured 73.50 marks and was included in the provisional select list and that she was not selected on account of the fact that she did not turn up at the stipulated point of time.

5. We heard Shri Anuj Agarwal, learned counsel for applicant and Shri Anuj Kumar Sharma, Ms. Poonam Singh, Shri S.N. Verma and Shri Jagdish N., learned counsel for respondents.

6. At the outset, we take up the question of limitation. It is no doubt true that the impugned order is dated 08.05.2014 and the OA is filed in the year 2018. Very strong reasons are needed for condonation of such a long delay, under Section 21 (3) of the Administrative Tribunals Act, 1985. However, if one takes into account the fact that the applicant is an unemployed person hailing from a poor family and that not only herself but her family members were under treatment of various ailments, we can certainly take a lenient view in the matter. The medical certificates relating to the treatment are also enclosed. Having regard to the facts and circumstances of the case, we condone the delay. Accordingly, the MA No.796/2018 stands allowed.

7. The applicant secured fairly good marks in the written test. The last selected candidate in the OBC category, to which the applicant belongs, secured 71 marks. The applicant, no doubt, was required to submit the mark sheets of B.Ed. 1st and 2nd year and the Certificate of B.Ed. on or before 20.03..2014. However, the applicant states that she was not aware of such a stipulation, nor any intimation was given to her. Though the applicant ought to have been vigilant in following the developments of the process of selection, the fact that the entire process was spread over several months, would certainly be a factor to be taken into consideration. We are of the view that in case there exists a vacancy referable to the year 2013, the case of the applicant can be considered, subject to her satisfying the requirement, as to the filing of the mark sheets for the B.Ed. 1st and 2nd year and the B.Ed Certificate.

8. We therefore, dispose of the OA, directing that the applicant shall submit a representation, enclosing the documents that are mentioned in the order dated 01.03.2014, before the SDMC, within two weeks from today. In case, there exists a vacancy referable to the selection covered by the result dated 01.03.2014, the case of the applicant shall be considered. In the event of her being appointed, she shall not be entitled to any back wages and the appointment shall be prospective in operation.

There shall be no order as to costs.