
(2018) 09 CAT CK 0119

In the Central Administrative Tribunal

Case No : Original Application No. 1172 Of 2017

Neeti Nayyar

APPELLANT

Vs

Govt. Of NCT And Ors

RESPONDENT

Date of Decision : 13-09-2018

Acts Referred:

Citation : (2018) 09 CAT CK 0119

Hon'ble Judges : K.N. Shrivastava, Member (A), S.N.Terdal, J

Bench : Division Bench

Advocate : Ajesh Luthra, Sangita Rai, Pradeep Singh Tomar

Final Decision : Dismissed

Judgement

S.N. Terdal, J

1. Heard Shri Ajesh Luthra counsel for applicant and Ms. Sangita Rai, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. In the OA, the applicant has prayed for the following reliefs:

"(a) Direct the respondents to consider the applicant's candidature for the post of Librarian (Post Code 02/13) in the OBC category and

(b) Further consider and appoint the applicant to the said post accordingly in view of her merit position

(c) Accord all consequential benefits

(d) Award costs of the proceedings; and

(e) Pass any order/relief/direction(s) as this Hon'ble Tribunal may deem fit and proper in the interests of justice in favour of the applicant."

3. The relevant facts of the case are that the Delhi Subordinate Services Selection Board (DSSSB) had issued an advertisement bearing number 002/2010

(post code 69/10 & 1/13 (post code No. 02/13) inviting applications from the eligible candidates for the post of Librarian in Directorate of Education. The written examination was conducted on 31.08.2014. The applicant had applied for the said post and she had filled her category as UR in the application form submitted by her initially. She had obtained 85 marks in the written examination whereas the cut off in UR category was 113 marks. Therefore, she could not be short listed in UR category. After declaration of result, she informed that she inadvertently filled her category in the application form as UR, even though she belonged to OBC category and requested to change her category as OBC category. However, as averred in the counter affidavit, as per the policy of DSSSB, the category of a candidate once filled in the application form, could not have been changed.

4. The counsel for the applicant vehemently and strenuously submitted that the applicant belongs to OBC category. She inadvertently filled in application form initially as UR category. Immediately, thereafter she made several representations admitting her mistake and requested the respondents to treat her as OBC category. She further submitted that though oral assurances were given by the respondents but they did not consider her under the OBC category. He further submitted that applicant has submitted a representation to respondents on 01.02.2017, which has not been disposed of by the respondents so far. In support of his submissions, he relied upon the following judgments of Hon'ble Supreme Court, High Court and this Tribunal:

"(1) Commissioner of Police Delhi and ... Vs. Dhaval Singh (AIR 1999 SC 2346)

(2) Anju Bharti Vs. Govt. of NCT of Delhi & Ors. (Civil Appeal No. 16936 of 2017)

(3) Anil Kumar Vs. State of Rajasthan & Ors (S.B.Civil Writ Petition No. 657/2012)

(4) Subhanata Devi Vs. State of Rajasthan through Director General of Police (S.B.Civil Writ Petition No. 11269/2011 and connected SB Civil Writ Petition)

(5) Anish Kumar Vs. Govt. of NCT of Delhi (CAT(PB) OA No.2113/2014)

We have perused the judgments relied upon by the counsel for applicant. However, we are of the opinion that none of them have dealt with the facts similar that of the case in hand.

5. The counsel for the respondents with equal vehemence submitted that the applicant should have been vigilant before filling up the particulars in the application form and as per the policy of the respondent-Board, the category of a candidate once filled in cannot be changed later. In support of her submissions, the counsel for the respondents relied upon a recent order of this Tribunal dated 12.08.2016 passed in OA No.4572/2014 titled Devender Yadav & Ors Vs. DSSSB & Ors in which, relying on the judgment of Rajasthan High Court and a Supreme Court judgment, this Tribunal in a similar case has held that when the instruction or yardstick prescribed in the concerned advertisement have been applied

uniformly in the cases of all the candidate, the claim of few candidates for rectifying such mistake cannot be considered. The relevant portion of the counter affidavit is extracted below:-

" In this connection, it is pertinent to mention here that subsequently the Board also received another order dated 12.08.2016 of Hon'ble CAT in OA No. 4572/2014 titled Devender Yadav & Ors Vs. DSSSB & Ors (copy of judgment is placed opposite for ready reference). In the said order, Hon'ble CAT(Principal Bench) has in a similar matter of incorrect filling up of the application form, rejected the petition of the applicant. The Hon'ble CAT has observed in the said case in the operative Para as under:-

"We are in respectful agreement with the Division Bench judgments of the Hon'ble Delhi High Court in Aruna Meena Vs. Union of India and Anrs. (Supra), and we are bound by it, as well as single Bench judgment of the Hon'ble Rajasthan High Court in Manoj Kumar (supra), and other related cases. The applicants ought to have been vigilant while filling up their application forms, and when they had failed to do so, no indulgence can be granted to them on my sympathetic consideration. The Hon'ble Apex Court has also in the case of State of Tamil Nadu & Ors Vs. St. Joseph Teachers Training Institute & Anrs. (1991) 3 SSC 87: JT 1991(2) SC 343, held that mere humanitarian grounds cannot form the basis for granting reliefs against the settled propositions of law, or contrary to law, and when an instruction or yardstick prescribed in the concerned advertisement has been applied uniformly in the case of all other candidates, the three applicants before us cannot claim to be provided with a more favourable consideration than others have been provided by the respondents."

6. In view of the facts narrated above and the law laid down by the superior Courts referred to above, we are of the considered opinion that there is no substance in the OA.

7. Accordingly, OA is dismissed. No order as to costs.