

(2021) 03 CAT CK 0182

In the Central Administrative Tribunal

Case No : Original Application No. 3259 Of 2018, Miscellaneous Application No. 3643, 3644 Of 2018

Upendra Singh Meena & Others

APPELLANT

Vs

Navodaya Vidyalaya Samiti & Others

RESPONDENT

Date of Decision : 31-03-2021

Acts Referred:

Citation : (2021) 03 CAT CK 0182

Hon'ble Judges : L. Narasimha Reddy, J;A. K. Bishnoi, Member (A)

Bench : Division Bench

Advocate : Vishwendra Verma, S. Rajappa

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J

1. Navodaya Vidyalaya Samiti (NVS), the 1st respondent herein, initiated steps in the year 2014, for recruitment of Post Graduate Teacher (PGT) and Trained Graduate Teacher (TGT) in Hindi. The process involved conducting of written test and verification of records. The written test was conducted on 01.06.2014 and list of selected candidates were published in June, 2015. The applicants appeared in the test for both the posts. They claimed the status of Scheduled Tribe (ST). Their names did not figure in the list of selected candidates.

2. It is stated that three candidates, who were selected under the ST category, for the post of TGT (Hindi), namely, (i) Sh. Vikram Singh Meena, (ii) Sh. Shiv Singh and (iii) Sh. Munish Kumar Meena, did not either join, or report for duty. Accordingly, their offer of appointments is said to have been cancelled to the post of TGT. It is also stated that three candidates selected for the post of PGT (Hindi) did not join/report for duty.

3. The grievance of the applicants is that though the respondents were under obligation to operate the reserve list, they did not take such a step and thereby, they were denied the opportunity of being appointed. They submitted

applications under Right to Information Act, and they were informed that the selection process, in pursuance of the 2014 Notification, was concluded in the year 2015, and the unfilled vacancies were carried forward to the selection for the year 2016. They filed this OA, with a prayer to direct the respondents to prepare and operate the second/waiting list of eligible candidates for appointment against the unfilled vacancies reserved in favour of ST candidates for the post of PGT and TGT (Hindi) for the year 2014. They contend that the DoPT issued a memorandum, directing that wherever any posts are left unfilled, the wait list or the second must be operated and such a step was not taken in their case on behalf of the respondents.

4. The applicants placed reliance upon the judgment dated 3.04.2018, rendered by this Tribunal in OA No. 1700/2016.

5. A detailed counter affidavit is filed. It is stated that the recruitment drive initiated in the year 2014 ended with the selection of candidates, and the vacancies that remained unfilled on account of failure of the candidates to join were carried forward, to the recruitment, that took place in 2016. It was also stated that the process in relation to 2016 selection is also completed. Since the respondents did not mention the exact number of vacancies, that remained unfilled, the directions were issued from time to time, and the necessary information was placed before us, at different stages.

6. Today, we heard Mr. Vishwendra Verma, learned counsel for the applicants and Mr. S. Rajappa, learned counsel for the respondents.

7. The 1st respondent initiated a recruitment drive for the year 2014 to fill the various posts. In this OA, we are concerned with the posts of PGT and TGT (Hindi). In the list of selected candidates, the names of the applicant did not figure, in the ST category. They undertook correspondence in this behalf mostly by filing applications under the Right to Information Act. Earliest, of such application was filed in March, 2017 and that was followed by one dated 08.02.2018. The description of information sought reads as under:-

"Sir navodaya vidyalya samiti ke dwara TGT PGT drive 2014 ki second list jari nahi ki gai jabki drive 2013 ki jari kar di gai hai or usse pehle ki bhi sabhi vacancies ko bhi second list se pura kiya hai yesa kyu 2014 ki vacant rahi seats ki vartman me kya sthithi hai."

8. It is stated that the second list in respect of TGT and PGT (Hindi) in the year 2014 was not operated and drive for filling up the post in the year 2016 has commenced and they wanted some information about it. In the reply issued on 23.02.2018, it was mentioned that the drive for recruitment for the year 2014 was completed, and the subsequent drive in the year 2016 has already been commenced. In a way, there is an answer in the question itself.

9. It is true that the DoPT issued OM dated 13.06.2000, providing for operation of the wait list or second list, in case the vacancies were not filled up in one year.

In the instant case, the respondents stated that the selection process for the 2014 drive was concluded in June, 2015, and the left over posts were carried forward to the next selection which commenced in January, 2016. Had the applicants filed an OA when the selection process, referable to the Notification 2014, was not yet closed, or at least before the next selection commenced, the things would have been different altogether. They initiated their steps to ascertain the information and thereafter, to file this OA, not only after the closure of the selection process for the year 2014, but also after conclusion of the next selection process that commenced in the year 2016.

10. In OA No.1700/2016, this Tribunal took note of the OM dated 13.06.2000, and the fact that the vacancies that remained unfilled on account of non-reporting of the selected candidates, was taken note of. Accordingly, directions were issued to operate the second list. We would have certainly considered the same measure in the instant case, but for the fact that the selection process of the year 2014 concluded in June, 2015 itself, and the vacancies that remained unfilled due to non-joining of the selected candidates were carried forward. They, in turn, became the subject matter of the selection process that commenced in the year 2016. The timing of the filing of the O.A. made substantial difference.

11. In the counter affidavit, the respondents stated as under:-

"(ix) That the contents of para 4.12 of the original application is vehemently denied and in reply thereto it is submitted that the recruitment drive 2014 already ended and the NVS had further advertised the vacant post (through direct recruitment basis) in the year 2016 which is also over. Therefore, any application filed by the applicants for redressal of grievances after the completion of subsequent recruitment drive 2016, relating to the grievances for recruitment drive 2014 is nothing but an afterthought of the applicant which is not permissible under eye in law."

12. This plea of the respondents in the counter affidavit was met by the applicants in their rejoinder as under:-

"(ix) That the contents of para ix of the Counter Affidavit are wrong and hence the same are denied. The contents of the abovementioned Rejoinder may kindly be read herewith."

13. Except making a bald denial, the applicants did not even mention that the selection process did not take place in the year 2016. It is fairly well settled that even where the facility of operating the wait list exists, that would be limited to a period of one year from the date of declaration of the results, and the question of its being operated, once the next selection process commenced, does not arise.

14. Learned counsel for the applicants is not able to cite before us, any precedent or a provision of law that enables the Tribunal to direct the operation of the panel of a particular selection process even after the next spell of selection has commenced and concluded.

15. Under these circumstances, we find it difficult to grant any relief to the applicants. The OA is accordingly dismissed.

16. Pending MAs also stand disposed of.

There shall be no order as to costs.