



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No. 862/2020

This the 11th day of April, 2023

Hon'ble Mr. Ashish Kalia, Member (J)
Hon'ble Dr. Anand S. Khati, Member (A)

Arvind Kaushik
S/o. Shri Premchand Kaushik
Aged about 30 years,
R/o. House No. B-90, Aman Vihar,
Kirari, Suleman Nagar, North West Delhi,
Pin – 110 086.
Post : Craft Instructor Health & Sanitary Inspector
Post Code : 120/14
Group – C ...Applicant

(By Advocate : Mr. Anuj Aggarwal with Mr. Shakib Malik
and Ms. Shradha Adhikari)

Versus

1. Delhi Subordinate Services Selection Board (DSSSB)
Through its Chairman
Govt. of NCT of Delhi,
FC-18, Institutional Area,
Karkardooma, Delhi-110 092.
2. Department of Training & Technical Education
Through its Secretary
Govt. of NCT of Delhi,
Muni Maya Ram Jain Marg,
Near PIT, Guru Govind Singh College,
Pitam Pura, Delhi – 110 034. ...Respondents

(By Advocate : Mr. Anuj Kumar Sharma)

**ORDER (ORAL)****Hon'ble Mr. Ashish Kalia, Member (J)**

The applicant has filed this OA seeking the following main reliefs :-

"8(i) Set aside the impugned Rejection Notice No. 1001 dated 23.01.2020, issued by the Delhi Subordinate Services Selection Board (DSSSB) whereby the candidature of the applicant (Roll No. 3910000173) for the post of Craft Instructor Health & Sanitary Inspector (Post Code 120/14) in Department of Training & Technical Education, was rejected on the ground - 'did not upload e-dossier in stipulated time';

(ii) Direct the respondents to accept the e-dossier (or hard copies of the qualification certificates and other requisite documents) and, thereafter, consider his candidature for appointment on the post of Craft Instructor Health & Sanitary Inspector (Post Code 120/14) and grant him all the consequential benefits thereof"

2. The applicant has applied for the post of Health and Craft Instructor / Sanitary Inspector. The advertisement was issued in 2014. The relevant clause 5 is at page 80 and clause 6 is at page 84 reads as under :-

"Only the successful candidates will be required to submit copy of challan, legible Self attested/Gazetted officer attested/Notary attested copies of the documents alongwith the hard copy of printout of online application form at the time of verification of documents (any information



contained in the attached certificates shall not be considered unless it is claimed in the application form).

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XXX

XXX

XXX

VI. Documents/Certificates :

After declaration of result, the successful candidates will be called for verification of documents. The following original Documents/Certificates and one set of self-attested copies along with hard copy of print out of online application & copy of challan are to be produced at that time.

- i. Matriculation/10th Standard or equivalent certificate indicating date of birth/birth certificate issued by the Competent Authority in support of their claim of age.*
- ii. Degree/Diploma certificate along with mark sheets pertaining to all the academic years as proof of educational qualification claimed. In the absence of Degree/Diploma certificate, provisional certificate along with mark sheets pertaining to all the academic years will be accepted."*

The applicant has got 97.75 % marks which is above those persons who got selected. Feeling aggrieved by this, he approached this Tribunal seeking to set aside the order dated 23.01.2020.

3. Notices were issued to the respondents who put appearance. Mr. Anuj Kumar Sharma, learned counsel has drawn our attention to the reply wherein preliminary



objection was raised by the respondents in paras 1, 2 and 3 which reads as under :-

"1. That the applicant himself has admitted to his negligence in the OA. The applicant has stated that, "It is pertinent to mention herein that in the month of November, 2019, the applicant's wife was admitted in Maharaj Agrasen Hospital, West Punjabi Bagh, New Delhi-110026 due to pregnancy and for that reason, the applicant was not regularly checking the DSSSB website and hence, the applicant had no knowledge of this aforesaid Notice till March, 2020."

2. That the Hon'ble High Court of Delhi, has already held in W.P©/4085/2019 that "The Tribunal has been similarly not been able to upload their e-dossiers by the notified date and time i.e., 13.02.2019. Merely because the petitioner claims that she was pregnant or out of town is no ground for extension of time as the selection process which is undertaken on a very large scale, cannot be delayed or withheld on account of the circumstances of a particular candidate. The petition is dismissed alongwith pending application."

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Brief Facts :

That Vide Advertisement No. 01/14-the Board had published the one vacancy for UR Category for posts of Craft Instructor Health and Sanitary Inspector (Post Code 120/14) in Department of Training & Technical Education.

<u>Cut off date/closing date</u> <u>application</u>	<u>27-02-2014</u>
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A written, First Tier Examination in r/o above mentioned post code was held on 29/09/2019 by the Board. Thereafter, vide Public Notice No. 872 dated 03/12/2019, shortlisted candidates were



called for submission of their e-dossier through OARS. Module, on board website w.e.f 05/12/2019 to 19/12/2019.

Sh. Arvind Kaushik was issued e-admit card under UR Category for the post codes 120/14. He was allotted Roll No. 3910000173, secure 97.75 marks. He was directed to submit the documents on e-dossier module up to 05/12/2019 to 19/12/2019. On Board's Website vide public notice Public Notice No. 872 dated 03/12/2019.

The applicant has not uploaded his documents on e-dossier on Board website within prescribed time limit. Hence his candidature was rejected vide Rejection Notice No. 1001 dated 23/01/2020.

The recruitment process for the post of Craft Instructor Health and Sanitary Inspector under Post Code 120/14 in DTTE, GNCTD has already been closed.

The Select panel/Waiting list in respect of UR Category for the post of Craft Instructor Health and Sanitary Inspector under Post Code 120/14 in DTTE, GNCTD could not be maintained as no suitable candidate is available in UR category.

4. In nutshell the respondents' stand is that the applicant was duly aware that he has to upload the e-dossier even if it is reflected in the Roll No. issued of the said examination. Respondents' counsel adds that they informed about uploading of e-dossiers through their website also.

5. Heard counsel for the parties. A short question raised by the applicant is whether he is entitled to get selected or not when he has secured one of the highest



marks which is sufficient for getting selection by taking help of Clause 4, 5 and 6 reproduced hereinabove. He submits that he was required to upload the e-dossier only after declaration by the respondents as only successful candidates were required to submit copy of challan legible self attested/Gazetted officer attested/Notarised documents. He did not do so as his wife was pregnant and he was busy taking care of her. On the contrary, learned counsel for the respondents prior to this, relied upon an order of this Tribunal in OA No. 4042/2017 in **Manisha vs. Union of India and Ors.** where this Tribunal has dealt with this issue in para 3 which is challenged before the Hon'ble Delhi High Court who has stayed operation of the judgment. The said para 3 of the Tribunal's order reads as under :-

"3. Arguments of learned counsel for the parties heard briefly. It is not in dispute that the requirement of uploading e-dossiers by the shortlisted candidates was not initially stipulated in the Advertisement Notice as such. Such requirement was stipulated by the DSSSB later. We also notice that a large number of shortlisted candidates have uploaded their e-dossiers in time as they might have been watchful of the DSSSB's website on regular basis. The applicant had



somehow missed out. It is not in dispute that the applicant is in the list of shortlisted candidates."

6. On the other hand learned counsel for the respondents has relied upon decision of Hon'ble Delhi High Court in **Mrs. Jyoti vs. Govt. of NCT of Delhi & Anr.** which is reproduced below :

".....We do not find any merit in this submission of the learned counsel for the petitioner. There is no prescription either in the public advertisement or in any guideline that ten days time has necessarily to be provided to the candidates for uploading of their e-dossiers.

The DSSSB had re-fixed their schedule by allowing the candidates to upload their e-dossiers from 04.02.2019 to 13.02.2019 and, therefore, even if it is accepted that the petitioner got notice of the said extension only on 08.02.2019 (for which there is no proof placed on record), she had sufficient time even after 08.02.2019 to upload e-dossiers. The Tribunal has found and we agree with the said findings, that if the petitioner is permitted to upload her e-dossier after the closing of the scheduled period, the same would amount to discrimination against others, who may have similarly not been able to upload their e-dossiers by the notified date and time i.e., 13.02.2019. Merely because the petitioner claims that she was pregnant or out of town is no ground for extension of time as the selection process which is undertaken on a very large scale, cannot be delayed or withheld on account of the circumstances of a particular candidate.

The petition is dismissed along with pending application."



He submits that the present case is covered under these two judgments. We are in agreement with the learned counsel Mr. Anuj Aggarwal that the advertisement is Bible of the appointment for the said post wherein no where it is stated that he has to upload his e-dossier. Subsequent amendment in the rule amounts to changing the rules of the games. Though, they have informed the applicant by issuing Roll No. of the said exam that he has to upload his e-dossier, the fact remains that the case of the applicant squarely falls under English judgment in **Carlill vs. Carbolic Smoke Ball Company's** case where law has been laid down century ago that if an advertisement is acted upon and later on respondents cannot relegate from their responsibility. The crux of the said judgment reads as under :-

Carlill v Carbolic Smoke Ball Company [1892] [EWCA Civ 1](#) is an [English contract law](#) decision by the [Court of Appeal](#), which held an advertisement containing certain terms to get a reward constituted a binding unilateral offer that could be accepted by anyone who performed its terms. It is notable for its treatment of [contract](#) and of puffery in advertising, for its curious subject matter associated with medical quackery, and how the



influential judges (particularly [Lindley](#) and [Bowen](#)) developed the law in inventive ways. Carlill is frequently discussed as an introductory contract case, and may often be the first legal case a law student studies in the law of contract.”

7. In the present case, there is no such responsibility is cast upon the applicant. The applicant has earned this post by securing highest marks in the exam.

8. Thus, in our considered view, the applicant is entitled to be considered for the said post, if he is otherwise eligible after certifying the documents by the respondents. We hereby direct the respondents to consider the case of applicant for the post of Craft Instructor Health and Sanitary Inspector within a period of three months from the date of receipt of a certified copy of this order. It is needless to say that since the other order/judgment passed by this Tribunal has been stayed by the Hon'ble Delhi High Court. This decision will also be subject to the final judgment given by the Hon'ble High Court.



9. With this observation, the OA is allowed.

There shall be no order as to costs.

(Dr. Anand S. Khati)
Member (A)

(Ashish Kalia)
Member (J)

/Mbt/