



**Central Administrative Tribunal
Principal Bench
New Delhi**

OA No.1039/2019

This the 9th day of July, 2024

**Hon'ble Mr. Manish Garg, Member (J)
Hon'ble Dr. Anand S. Khati, Member(A)**

Mr. Rituraj Khandal
Aged about 28 years
s/o Sh. Ram Kishor Sharma
R/o Bandiya Ki Dhani
PO-Singod Kalan, Via-Khejrolim Teh-Comu
Distt. Jaipur, Rajasthan-303803
Post:TGT (Sanskrit) (Male)
Post Code:116/12, Group 'B'

...Applicant

(By Advocates: Mr. Anuj Aggarwal, Mr. Nikhil Panwar and Mr. Shakib Malik)

Versus

1. Delhi Subordinate Services Selection Board(DSSB)
Through its Chairman
Govt. of NCT of Delhi
FC-18, Institutional Area
Karkardooma, Delhi-110092.
2. The Director of Education
Directorate of Education
Govt. of NCT of Delhi
Old Secretariat Building
Civil Lines, Delhi-110054.

... Respondents

(By Advocate: Mr. Ritank Kumar for Mr. R.K. Sharma)

ORDER (ORAL)

Hon'ble Mr. Manish Garg, Member(J)

In the instant OA the applicant seeks the following relief:-

“(i) Set aside the impugned Rejection Notice No. 185 dated 13.09.2017 whereby the candidature of the applicant (Roll No. 52000071) was rejected by the Delhi Subordinate Services



Selection Board (DSSSB) for appointment on the post of TGT (Sanskrit) (Male) (Post Code 116/12) on the ground - "Did not upload e-dossier during the given time";

(ii) Direct the respondents to accept the e-dossier or in alternative accept the hard copies of the educational certificates and other documents as required by the Delhi Subordinate Services Selection Board (DSSSB) for appointment on the post of TGT (Sanskrit) (Male) (Post Code 116/12);

(iii) Direct the respondents to consider the candidature of the applicant for appointment on the post of TGT (Sanskrit) (Male) (Post Code 116/12) w.e.f. the date when the other candidates were selected on the said post with continuity of services, full back wages/salary and with all consequential benefits (monetary as well as non monetary) thereof;

(iv) allow the present Original Application with costs in favour of the applicant.

v) Pass any other order/direction which this Hon'ble Tribunal deem fit and proper in favour of the applicant and against the respondents in the facts and circumstances of the case."

2. Learned counsel for the applicant contends that in the present matter there was no provision or terms and conditions as stipulated in the advertisement that the applicant was supposed to submit the documents through e-dossier. The terms and conditions as stipulated in the advertisement are as follows:-

"(3) Candidates are required to submit the legible attested copies of the following documents along with the application form (any information contained in the attached certificates shall not be considered unless it is claimed in the application form).

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- (i) Matriculation/Secondary certificate or equivalent in support of their declaration of age.
- (ii) Degree or Diploma or other certificates in support of their claim of educational qualifications and copies of ALL YEAR WISE mark sheets from Matriculation onwards.
- (iii) Experience certificates, wherever applicable
- (iv) Caste/Category/Disability Certificate (as prescribed in Rules) in the prescribed form issued by the competent authorities, if claiming benefit under any of the above categories.
- (v) Two recent passport size coloured photographs (front face) with light background as per specification given above in Section-A under heading "Important", out of which one should be pasted (Not stapled or tagged) on the space provided in the application form. The second copy of the same photograph should be attested by a Gazetted Officer and attached carefully with the application form for the purpose of identification of the candidates at any stage of recruitment. Any variation in the two photographs may lead to rejection of his/her candidature.
- (vi) One self-addressed post card duly affixed with Rs.6/- postage stamps for acknowledgement of the application. The candidate must write Name of the post, Advertisement Number and Post Code Number of the post applied for on the post card."

3. He further highlights Clause 9 sub clause (v) of the Advertisement wherein it has been mentioned as under:-

"The Board makes provisional selection of the candidates on the basis of information and



documents/certificates provided by the candidate in his/her application form and recommend the same to the indenting department. Further the Appointing Authority i.e. the indenting department verifies and satisfies itself about the authenticity of documents/certificates and eligibility as per the Recruitment Rules before finally appointing the candidate(s). Therefore the provisional selection of a candidate confers him/her no right of appointment unless the Appointing Authority is satisfied after such inquiry as may be considered necessary that the candidate is suitable in all respect for appointment to the post."

4. Learned counsel for the applicant contends that such additional requirement or changed requirement of uploading the e-dossiers, not contained in the original advertisement and the action of the DSSSB in not informing the applicant personally, amounts to arbitrariness and violative of Articles 14 and 16 of the Constitution.

5. He further contends that the law has already been laid down by this Tribunal in catena of decisions. More particularly, in the case of **Poonam vs. DSSSB and Anr.** in OA No. 1923/2019 decided on 17.05.2023. Thereafter, he relied upon the decision of the same very Bench which passed the order in OA No. 4222/2017 decided on 02.07.2024.

6. Opposing grant of relief, learned counsel for the respondents relies upon the averments contained in

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the counter affidavit. He would further rely upon the Advertisement and that the terms and conditions are sacrosanct and binding upon the parties. Therefore, the applicant is misleading the court and that the condition of submission of e-dossiers was mandated pursuant to the declaration of the result which was uploaded on the website w.e.f. 14.07.2017 to 28.07.2017.

7. Similar issues have already been decided by the Hon'ble High Court of Delhi vide its judgment dated 25.03.2019 passed in W.P.(C) 2892/2019 titled ***Pushpendra Singh Parnami Vs. Delhi Subordinate Services Selection Board(DSSSB) & Anr***, whereby the Hon'ble Court dismissed the W.P(C) of the petitioner who failed to upload the e-dossier within the stipulated period. The Hon'ble High Court has observed the following vide its Order dated 25.03.2019:-

"The submission of the petitioner is that he belongs to a very remote area in the State of Rajasthan and due to lack of internet connectivity and his illness he could not learn about the result declared by the DSSSB on its website. We are unable to accept this submission. The petitioner while applying for the post of PGT(History) was well aware that the result of the written examination would be uploaded by the DSSSB on its website and it was for the petitioner to track the same and to



respond in terms of the advertisement issued by the respondent.

Having missed the bus, he cannot be permitted to submit his documents/e-dossiers after the cut-off date. If such relaxation were to be granted to one candidate, it would be discriminatory in respect of others, who may have similarly missed the bus and this would render the entire process undertaken by the DSSSB as open ended.

In view of the aforesaid, we find no merit in the present petition and the same is dismissed."

8. Similarly, in W.P.(C) No.4085/2019 in the matter of **Jyoti Vs. Govt.of NCT of Delhi and Anr.** in its Order dated 22.04.2019, it has been observed and ordered by the Hon'ble High Court of Delhi that:-

"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-dossier by the notified date and time i.e. 13.02.2019. Merely because the petitioner claim that she was pregnant or out of town is no ground for extension of time as the selection process which is undertaken on very large scale, cannot be delayed or withheld on account of the circumstances of a particular candidate."

9. Learned counsel for the respondents averred that the ratio of the aforementioned two judgments of the Hon'ble High Court is fairly applicable to the instant case.

10. Having heard the learned counsel for the parties and perused the records, we find that the aforesaid

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issue, in similar circumstances has already been decided by this Tribunal in the matter of **Poonam**(supra) dated 17.05.2023. For ready reference, the contentions of the respective parties as dealt with in detail in Para 15 of the said Order read as under:-

"15. It is our considered view that the conditions mentioned in the original Advertisement for a particular selection process is the foundation based on which the candidates would take appropriate action in respect of their candidature. The Standards Operating Procedure for filling the forms and the subsequent steps to submission of personal dossiers on being shortlisted or selected should be clearly spelled out in the initial advertisement in unambiguous terms. If there was a requirement of submission of only e-dossiers, the same should have been spelled out up front in the initial advertisement. We do agree with the rational drawn by this Tribunal in OA No.862/2020 in Arvind Kaushik vs DSSSB (Supra) wherein the English law in Carlill vs Cabolic Smoke Ball Company (supra) has been quoted. In the instant case, even, the DSSSB has failed to observe their own stipulation in the Notice dated 21.01.2019, wherein it was mentioned "the shortlisted candidates are also being separately informed through SMS and E-Mail on their registered Mobile and e-mail id". The respondents have failed to substantiate that they have separately informed all shortlisted candidates and particularly, the present applicant about their being shortlisted. In the age of IT and Mobile Technology revolution, it is not difficult and administratively time –consuming to inform hundreds of shortlisted candidates through their e-mail and SMS to their registered Mobiles regarding them being shortlisted and to undertake further action by the stipulated date. In view of this, the action by Respondent No 2 i.e. DSSSB amounts to arbitrariness and lack of application of mind in following their own stipulated SOP for informing the shortlisted candidates. There will be number of situations when a particular candidate may not be in a position to access the website of the DSSSB continuously to know the uploading of



results by DSSSB, unless it is informed well in advance to all candidates that such uploading would take place within a stipulated time line/period. The candidates have missed the bus because there was no time table stipulated in the advertisement for the arrival and departure of the bus. The ratio of the judgement in Jyoti Vs GNCTD (Supra) not applicable to the case at hand as the facts and circumstances of that case is different than those in the present case. There the issue was plain request for allowing late submission of e-dossier despite knowledge of the stipulated time for uploading such e-dossier. Here the issue is no knowledge about such stipulation and no knowledge about being shortlisted.”

11. In view of the above, we cannot take a divergent view to that of the Co-ordinate Bench of this Tribunal. In view of the above, the present OA is allowed. The respondents are directed to accept the e-dossier of the present applicant and if he has the legitimate eligibility for the post which he applied for, he should be offered the employment to the advertised post. Respondent no.1 is directed to accept the candidature of the applicant for employment against concerned category against existing vacancies or even creating a supernumerary post. The candidates belonging to the same category already selected by DSSSB (Respondent no.1) and employed by Respondent No.2 will continue to be in service and their rights shall not be affected by this order in any manner.

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12. No order as to costs. Pending M.A(s), if any, also stands disposed of accordingly.

(Dr. Anand S Khati)
Member(A)

(Manish Garg)
Member(J)

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