



2024:DHC:9622-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 17117/2024, CM APPLs. 72618/2024 & 72619/2024
DSSSB AND ANR.Petitioners

Through: Mr. Gaurav Dhingra and Mr.
Shashank Singh, Advs.

versus

MOHAN LAL CHHEDWALRespondent
Through: Mr. Anuj Aggarwal, Mr.
Avinash Kumar, Ms. Divya Aggarwal Mr.
Pradeep Kumar and Ms. Kritika Matta,
Advs.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT (ORAL)
11.12.2024

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C. HARI SHANKAR, J.

1. This writ petition assails judgment dated 2 August 2024 passed by the Central Administrative Tribunal¹ in OA 1076/2019.

2. The respondent applied for appointment to the post of Trained Graduate Teacher (Natural Science) (Male)² in the Directorate of Education³, in response to Advertisement No. 04/2017, issued by the Delhi Subordinate Services Selection Board⁴, Petitioner 1 before this Court. He was issued an admit card, on the basis of which he appeared

¹ "the Tribunal", hereinafter

² "TGT" hereinafter

³ "DOE"

⁴ "DSSSB", hereinafter



in the written examination, conducted by the petitioners on 29 September 2018.

3. On 18 February 2019, the petitioners issued a notice on its website, informing candidates of their cut-off marks, and also uploaded the list of candidates shortlisted for further proceedings in the selection.

4. The respondent contends that, as he was situated in a remote area of Rajasthan, and was also not keeping well, he was not in a position to access his internet. It was also the respondent's contention before the Tribunal, as also before this court, that no SMS or email was sent to him, informing him of the fact that he had been shortlisted. The impugned order of the Tribunal specifically records this contention, in para 3, thus:

“3. Learned counsel for the applicant submitted that in February, 2019 when the result was declared and the applicant was shortlisted for appointment to the post of TGT (Natural Science) (Male), he was not aware of the result. The aforesaid Notice as well the result of the applicant was never personally informed to him. Since the applicant belongs to rural village of Rajasthan, he had no access to internet services and besides that due to his illness, he could not check his result. It is further pointed out that in terms of the Notice dated 18.02.2019, the shortlisted candidates were to be separately informed through SMS and e-mail on their registered mobile number and email ID. Though the respondent No.1 on earlier occasions communicated relevant information regarding downloading of admit cards and general instructions for exam on the website through SMS on his registered mobile number, however, they failed to inform the applicant about his short-listing and declaration of result. When the applicant came to know about his result on 11.03.2019, the closing date of uploading the e-dossier and documents was already over. Immediately thereafter, he made several representations dated 12.03.2019,



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15.03.2019 and 20.03.2019 to the respondent No.1 with a request to consider his candidature and accept his e-dossier or hard copies of the certificates/documents etc., but to no avail. Hence, this O.A.”

5. On the ground that the respondent had failed to upload his e-dossier within the time stipulated in that regard in the notice dated 18 February 2019, whereby the selection process was initiated, the respondent’s candidature was rejected by the petitioners.

6. Aggrieved thereby, the respondent approached the Tribunal by way of OA 1076/2019⁵.

7. Before the Tribunal, the respondent’s principal contention was that, as the fact that he had been shortlisted had not been intimated to him either by SMS or email, as required by the applicable instructions, he was never made aware of the fact that he had been shortlisted. As such, the respondent, as the applicant in the OA, contended that he could not be bound down by the terminus acquaint fixed by the petitioners within which the e-dossier was required to be uploaded.

8. This contention has found favour with the Tribunal. Paras 9, 10 and 13 of the impugned judgment may be reproduced thus:

“9. In the Note 4 below the Advertisement No. 04/2017 dated 20.12.2017, it has been mentioned as under:

“4. The successful candidates will be required to submit legible Self attested copies of the documents, Admit Card alongwith the hard copy of printout of online application form at the time of verification of documents (any

⁵ Mohan Lal Chhedwal v DSSSB



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

However, in the Notice dated 18.02.2019, it has been mentioned thus:

“The shortlisted candidates for the above mentioned post/post code are hereby informed to fill the e-dossier and upload all the documents of Educational/Professional Certificates / Degree and Mark sheets/ Caste Certificate/ Disability certificate / Proof of Govt. Servant / Ex. Servicemen / Admit Cards etc. as applicable in the E-dossier module in OARS link in their individual account in OARS module.

The link for uploading e-dossier shall be kept open for a period of 10 days w.e.f. 27/02/2019 to 08/03/2019. The candidate uploading e-dossier should ensure that he fulfills all the eligibility criteria as on the cutoff date, i.e. 31/01/2018. The shortlisted candidates are also being separately informed through SMS & E-mail on their registered mobile number & email id.”

10. From a perusal of the above, it is evident that there is clear stipulation in the Notice dated 18.02.2019 that “the shortlisted candidates are also being separately informed through SMS and E-Mail on their registered Mobile and e-mail id. However, in the present case, the respondent No.1- DSSSB failed to observe their own stipulation and also failed to substantiate that they have separately informed to the present applicant through SMS/e-mail about his being shortlisted.

13. Resultantly, the O.A. is allowed and the respondent No.1 is directed to accept the e-dossier of the applicant in the form of hard copy and accept his candidature for appointment for the post applied by him against concerned category. If he is otherwise found suitable and eligible, the applicant shall be issued offer of appointment to the post of TGT (Natural Science) (Male), Post Code No.135/17 as per his merit against the existing vacancies, if any, or even by creating a supernumerary post, with all consequential benefits albeit only on notional basis, however, on actual basis only from the date of his joining to the post. The candidates belonging to the same category already selected and appointed by Respondent No.1 will continue to be in service and their rights shall not be affected by this order in any manner.”



9. We have heard Mr. Gaurav Dhingra, learned Counsel for the petitioners, at length.

10. Mr. Gaurav Dhingra submits that the respondent was in fact intimated of the fact that he had been shortlisted by SMS. He further submits that, even otherwise, it was the duty of the respondent to keep track of the petitioners' website. Had he be vigilant in that regard, Mr. Gaurav Dhingra's contention is that the respondent would have become aware of the fact that he had been shortlisted.

11. Mr. Gaurav Dhingra submits that, if orders directing consideration of the candidature of the candidates, who failed to upload the e-dossier within the time stipulated in that regard, are to be passed, it would open a Pandora's box.

12. We have considered the submissions of Mr. Gaurav Dhingra but regret that we are unable to agree with them.

13. It is settled, from the time of *Taylor v Taylor*⁶, followed by the Privy Council in *Nazir Ahmed v King-Emperor*⁷ and a veritable plethora of judgments of the Supreme Court, including *State of UP v Singhara Singh*⁸, that, when the law requires an act to be done in a particular manner, that act must be done in that manner or not done at all, and that all other modes of doing the act are impliedly forbidden.

⁶ (1875) 1 Ch D 426

⁷ AIR 1936 PC 253

⁸ AIR 1964 SC 358



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14. Strict compliance with the conditions of the notice dated 18 February 2019 was, therefore, imperative.

15. The notice clearly required the petitioners to inform each candidate, through SMS and email, of the fact that she, or he, had been shortlisted. There is a specific finding of fact by the Tribunal, in para 10 of the impugned judgment, that this requirement was not satisfied in the present case, and that the petitioners had no evidence to indicate that the respondent had been informed of the fact that he had been shortlisted either by SMS or email.

16. There is also a specific averment by the respondent, in the OA filed before the Tribunal, that he was never informed of the fact that he had been shortlisted either by email or SMS. We have gone through the entire counter affidavit filed by the petitioners before the Tribunal. There is not a whisper of an averment, in the counter affidavit, that the respondent was ever informed of his short-listing either by SMS or email. The assertion of the respondent to that effect, remains, therefore, untraversed, before the Tribunal as well as before this Court.

17. For the first time, before this Court, in the present writ petition, a faint plea has been advanced to the effect that the respondent was informed by SMS of his being shortlisted.

18. We cannot allow such a plea, which is one of fact, to be advanced for the first time in this writ petition. We are not sitting in



appeal over the decision of the Tribunal.

19. Moreover, no copy of any such SMS, whereby the respondent was intimated of the fact that he had been shortlisted was filed either before the Tribunal or even before this Court.

20. We, therefore, do not accept the contention that the respondent was informed of his having been shortlisted by SMS or email.

21. The nation is moving towards inclusivity. The stipulation that the candidates would be informed of their being shortlisted by SMS or email was obviously intended to ensure that candidates who were situated in areas which were remote or relatively inaccessible would also be made aware of the fact that they were shortlisted. The requirement of uploading the e-dossier within the time stipulated in that regard, as contained in the notice dated 18 February 2019, specifically applies to “shortlisted candidates”. It obviously presupposes that the candidate was made aware of the fact that she, or he, had been shortlisted. A candidate who was never informed that he had been shortlisted, by the modes envisaged in the notice dated 18 February 2019, cannot, therefore, be bound down by the time stipulations regarding uploading of the e-dossier.

22. Mr. Dhingra also placed reliance on the judgment of a Division Bench of this Court in *Pushpender Singh Parnami v DSSSB*⁹. The same decision was relied upon, by the petitioners, before the Tribunal. We have perused the said decision. There is no finding by this Court,

⁹ Order dated 25 March 2019 in WP (C) 2892/2019



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in the said decision, that there was a default on the part of the DSSSB in informing the candidates that he had been shortlisted either by SMS or by email as envisaged in the notice inviting applications.

23. The decision in *Pushpender Singh Parnami* is, therefore, in our view clearly distinguishable.

24. The cancellation of the respondent's candidature on the ground that he had not uploaded his e-dossier within time was, therefore, clearly illegal. The Tribunal was, consequently, justified in directing Petitioner 1 to accept the hard copy of the e-dossier of the respondent and appoint him as TGT if he qualified for such appointment as per his merit.

25. In the aforesaid facts and circumstances, we see no reason to interfere with the impugned judgment passed by the Tribunal. The writ petition is, accordingly, dismissed in *limine*.

C. HARI SHANKAR, J.

MANOJ JAIN, J.

DECEMBER 11, 2024/aky

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