



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of decision: August 25, 2023*

+ W.P.(C) 11325/2023, CM APPLs. 44010/2023 & 44011/2023

GOVT OF NCT OF DELHI AND ORS.

..... Petitioners

Through: Mr. Gaurav Dhingra, Adv. with
Mr. M.C. Dhingra and
Mr. Piyush Kant Roy, Advs.

versus

SHEETAL

..... Respondent

Through: Mr. A.K. Bhakta, Adv.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

CM APPL. 44010/2023 (for exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 11325/2023, CM APPL. 44011/2023

1. The challenge in this writ petition is to an order dated May 19, 2023, passed by the Central Administrative Tribunal Principal Bench, New Delhi ('Tribunal', for short) in Original Application No.2747/2017 ('OA', for short) whereby the Tribunal has allowed the OA by stating as under:

"7. Conclusion:

7.1 In view of the foregoing discussion, following the



*decision of this Tribunal in **Manisha** (supra), we allow the OA and quash and set aside the impugned Corrigendum dated 27.06.2017. The respondent - DSSSB are directed to accept the documents of the applicant in the form of hard copy, verify them and if it is found that she is eligible in terms of her merit position as well as on the basis of her documents, then recommend her claim for appropriate appointment to the User Department. This exercise shall be completed by the respondents within a period of four weeks from the date of receipt of certified copy of this order. OA is allowed in aforesaid terms. No order as to costs.*

7.2 Interim order as granted on 18.08.2017 is made absolute.

7.3 All pending MAs are disposed of.”

2. The submission of Mr. Gaurav Dhingra, learned counsel for the petitioners is that the Tribunal could not have given the direction to accept the documents of the respondent in the form of hard copy, verify them and if she is found eligible, then recommend her claim for appropriate appointment to the User Department.
3. The subject matter of the selection was in respect of certain posts under the Government of National Capital Territory of Delhi which process was conducted by the Delhi Subordinate Services Selection Board (DSSSB) one of the petitioners herein. The post in question is Supervisor Grade-II (code 212/14 reserved for female candidates) under Scheduled Caste category.
4. The respondent appeared in the examination and qualified the same. The result of the respondent was intimated to her that she has been shortlisted for the post code 212/2014 and was accordingly directed to upload her e-Dossier.
5. The stand of the respondent as noted by the Tribunal was that



she uploaded her e-Dossier for verification of her documents through online mode on May 12, 2017, but due to some technical error in the server of DSSSB the documents could not be uploaded. She did try to upload her e-Dossier again but could not upload the same despite repeated efforts.

6. Thereafter, she had approached the petitioners herein requesting them to accept the documents for verification, but she was suggested to submit the same through speed post, which she did. It is noted that Result Notice No.149 dated June 06, 2017, where the name of respondent did appear at serial No.4 under SC category in the merit list was prepared by the petitioners.

7. Simultaneously, the petitioners have also issued Rejection Notice No.150 dated June 06, 2017, wherein the candidature of the respondent was not rejected.

8. It was the case of the respondent that being shortlisted for appointment, she was waiting for offer of appointment but to her utter surprise the petitioners in between have issued the impugned order dated June 27, 2017, through online mode and deleted the name of the respondent which was available at serial No.4 under SC category in the Result Notice dated June 06, 2017, without assigning any reason. This makes the respondent to file OA before the Tribunal. In support of her claim, the respondent had relied upon the judgment of the Tribunal in the case of *Manisha v. GNCT of Delhi & Ors., OA No.4042/2017*, decided on October 29, 2018.

9. The case of the petitioners before Tribunal was that a general notice was published on the website of the Board informing them that



marks list has been uploaded on the website and the shortlisted candidates to download the check-list and the Annexure 'A' and 'B' and duly filled up e-dossier be uploaded from April 27, 2017 to May 12, 2017. The short-listed candidates were also invariably sent SMS through their registered mobile number. However, the respondent failed to upload the e-dossier during the above-mentioned period. While preparing the result, the name of the respondent was inadvertently mentioned in the list of provisionally nominated candidates. Later on, the mistake was rectified vide notice dated June 27, 2017 rejecting her candidature for failing to upload the e-dossier.

10. Therefore, the respondent was not able to make out a case in her favour based on the averments made in the OA.

11. The Tribunal in its analysis has commented that the corrigendum dated June 27, 2017 was non-speaking and non-reasoned one. There is no explanation coming forth about rescinding the result of the respondent dated June 06, 2017.

12. In affidavit dated April 10, 2018 filed by the petitioners before the Tribunal, it was averred is that the shortlisted candidates were also invariably sent SMS through registered mobile phone. However, the respondent failed to upload the e-dossier during the above-mentioned period.

13. As noted above, the Tribunal has relied upon its decision in the case of *Manisha (supra)*. The submission of Mr. Gaurav Dhingra is by relying upon three orders passed by this Court in similar matters; one being *Mrs. Jyoti v. Govt. of NCT of Delhi and Anr., W.P.(C) 4085/2019*, decided on April 22, 2019, wherein this Court had in



similar circumstances where a candidate has not uploaded her e-dossier and was not given the appointment, had not interfered with the order of the Tribunal rejecting the OA.

14. Similarly, in *Pushpendra Singh Parnami v. Delhi Subordinate Services Selection Board (DSSSB) and Anr., W.P.(C) 2892/2019*, decided on March 25, 2019, wherein this Court had clearly held that the petitioner therein having missed the bus, cannot be permitted to submit his documents / e-dossiers after the cut-off date.

15. Having heard the learned counsel for the parties and perused the record, what is important in this matter is the representation made by the respondent to the petitioners. The English translation of the same reads as under:

*“To,
Director Secretary
DSSS, FC-18, institutional Area,
Karkardooma, Delhi-110092
Sub.: -Prayer for verification of Original Certificate.
Sir,*

Most humbly and respectfully I submit that I applied for the post of Supervisor Grade-II DSSSB Post Code:212/2014. Of which examination was held on 05.03.2017 and result was published on 27 April 2017. I could not upload my documents in e-Dossier due to some problem which last date was 12 May 2017.

I request you for verification of my documents.

It would be your great kindness..

Thanks,

*Your Obedient
Name: Sheetal
Roll No. 12200181
D.O.B: 4/11/1992*



*Marks Obtained-104.50
Address: H. No.23 Pole No.01
Near Girls Primary School,
V.P.O. Bakkarwala, New Delhi-41”*

16. We have compared the English translation with the original letter in Hindi. Suffice to state, the respondent has unequivocally stated that for certain reasons, she could not be able to upload the documents. The respondent has not given any *bona fide* reason for not uploading the documents. No doubt, the respondent did make a further representation on May 16, 2017 but having taken a stand at the first instance in her representation dated May 15, 2017, it must be held that the respondent did not upload the documents for the reasons best known to her. In the absence of the documents being uploaded before the cut-off date, the consequence must flow, which has been spelt out by this Court in the case of *Pushendra Singh Parnami (supra)* wherein this Court has stated as under:

“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.”

17. Similarly, in ***Mrs. Jyoti (supra)***, this Court has held as under:

“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.”

18. Insofar as the judgment in ***Manisha (supra)*** is concerned, we are informed the same is under challenge before this Court wherein the order of the Tribunal has been stayed. Be that as it may, in view our conclusion above, the present petition needs to be allowed by setting aside the order of the Tribunal. It is ordered accordingly. The writ petition is disposed of.

19. Before parting, we must state / direct that the DSSSB shall amend its selection process more particularly with regard to the submission of documents by the candidates. It shall call upon the candidates to upload their documents showing their eligibility and caste etc. at the time of submission of the application itself so that even if in the eventuality a candidate is unable to upload the documents after the results are announced, the DSSSB can rely / consider the documents uploaded by a candidate at the time of the submission of the application and verify the same for further action in the selection process. This is



primarily to obviate the cancellation of candidature / appointment of candidate, who is shortlisted for appointment, only on the ground that the documents have not been uploaded.

CM APPL. 44011/2023

Dismissed as infructuous.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

AUGUST 26, 2023/aky