



F.1 (166)/CC-II/DSSSB/2009/422-428

Dated: 14/1/2013

**ORDER**

**Compliance of order/direction dated 06.12.2012 of the Hon'ble Central Administrative Tribunal as passed in OA 4105/ 2012 titled as Seema Kumari V/s GNCTD & ors.**

The Hon'ble CAT in OA 4105/2012, titled as Seema Kumari V/s GNCTD & Ors. vide its order dated 06.12.2012 has directed as under:-

“3. In view of the above submission of the learned counsel for the applicant, we dispose of this OA at the admission stage itself with the direction to respondent No. 2- Delhi Subordinate Services Selection Board to consider his case in the light of the **aforementioned judgments. In case the applicant's case is covered by the aforesaid judgments** and if she is otherwise found eligible for the said post, she shall be recommended for appointment. In that case respondent No.3- Municipal corporation of Delhi shall appoint her, with all consequential benefits as in the case of her batch mates, except back wages. In case she is not found eligible, she shall be informed about the reasons by way of a reasoned and speaking order. The aforesaid direction shall be complied with within a period of one month from the date of receipt of a copy of this order. **There shall be no order as to costs.**”

In compliance of above order, the case of applicant i.e. Seema Kumari, Roll No. 01611800 has been re examined and it is found that:-

1. The applicant Seema Kumari had applied for the post of Teacher (Primary) MCD under post code No.016/08.The DSSSB had conducted the examination for this post on 15.02.2009 and the result for the post code was declared on 06.10.2009.

2. The applicant Seema Kumari was short listed in part- I examination in ST category on the basis of her claim in the application form. This is due to the fact that the Board does not conduct pre-examination scrutiny at the time of declaration of the result of Part- I.

3. The candidate obtained 167/200 marks as per final merit list and her case was carefully examined before declaration of the result. The documents furnished by the candidate were scrutinized and it was observed that the applicant was a ST from outside Delhi. Accordingly she was not found eligible for appointment under ST category for the jobs under Govt. of Delhi. There are no notified ST in the NCT of Delhi.

4. As per the then existing policy of the Govt. of Delhi, the benefit of ST category was not admissible to outside ST candidates instead they were considered under UR category only.

5. In the light of the judgment of the Hon'ble Supreme Court of India dated 04-08-02009 as passed in Civil Appeal No. 5092 of 2009 arising out of petition (s) for Special leave to Appeal (Civil) No.. (s) 24327/05- Subhash Chandra & Anr. V/s DSSSB & Ors., she was treated as UR candidates, thus not found eligible for selection under the ST category. The reservation policy was confirmed by Delhi High Court also in the case titled as DSSSB & Ors. V/s Mukesh Kumar & others in WP(C) 610/2011 & connected cases.

6. Later, the Hon'ble High Court of Delhi has reconsidered its own decision in the matter titled Deepak Kumar & Ors V/s. District & Session Judge Delhi & Ors. WPC No.5390/2010 and connected petitions decided on 12.9.2012. However, the result for the post of Teacher (Primary) MCD post code 016/08 was declared before 12-9-2012.Therefore, the law as applicable on that date has to be followed. Accordingly, the result in this case does not require any change.

In view of the above facts, the result of ST category candidates was not processed in the light of the judgment of the Hon'ble Supreme Court of India dated 04-08-02009 as passed in Civil Appeal No. 5092 of 2009 arising out of petition (s) for Special leave to Appeal (Civil) No.. (s) 24327/05- Subhash Chandra & Anr. V/s DSSSB & Ors., she was treated as ST thus not found eligible for selection under the ST category. The reservation policy was confirmed by Delhi High Court also in the case titled as DSSSB & Ors. V/s Mukesh Kumar & others in WP(C) 610/2011 & connected cases, the applicant Seema Kumari cannot be considered for selection to the post of Teacher (Primary) MCD under post Code 016/08 under ST category the result of which was declared before the decision of the Hon'ble High court of Delhi in the case referred above.

This issues with prior approval of the competent authority.

Sd/-  
Deputy Secretary CC -II

**Seema Kumari**  
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2. PS to the Member, DSSSB.
3. Dy. Secretary (Legal), DSSSB.
4. Programmer, IT Branch, with the request to upload the same on the website of DSSSB
5. Notice Board.
6. Office order file.

Sd/-  
Deputy Secretary CC –II