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GOVERNMENT OF NCT OF DELHI
Delhi Subordinate Services Selection Board
FC-18, INSTITUTIONAL AREA, KARKARDOOMA, DELHI-110302
Website: www.dsssb.delhigovt.nic.in

No. F4(406)CC-I/DSSSB/2015/ 5052

Dated:- 03/04/17

ORDER

1. The Board has been mandated to make recruitment to Group 'B' (Non-Gazetted) and Group 'C' posts of various departments of Govt. of NCT of Delhi and its local/autonomous bodies. The indenting departments forward the requisition of the vacancy of the post alongwith the Recruitment Rules. The Board makes recruitment as per the qualifications prescribed in the RRs.

2. The vacancy requisition for the posts of Assistant Teachers (Nursery) was received in the year 2013 from the Dte. Of Education and the same were advertised vide Advertisement No. 01/2013 under Post Code 03/13 alongwith some other post codes of different posts. Applications were invited from the candidates who fulfilled the eligibility criteria as on the cutoff date i.e. 20/03/2013. Applicants were requested to submit their applications only on the prescribed OMR application forms.

3. In para 8 of the advertisement the candidates were advised to scrupulously observe the following instructions in connection with filing of applications:-

8. HOW TO APPLY

i) The candidate must apply in the prescribed OMR application form available at DSSSB and DC (Revenue) offices at North-East, North, North West, West, South & South West

ii) No document should be attached with the OMR application. The OMR application form should not be folded or stappled. In case, the OMR form is folded/stappled or any document is attached, the application shall be rejected

iii) The application form should be filled up using Blue/Black ball pen only.

iv) The candidate must write his/her Name, Father's/Husband's name and Date of Birth as it appears in the Matriculation/Secondary Certificate or equivalent. If the candidate has changed his/her name after matriculation, his/her father's name, her husband's name, necessary documentary proof/affidavit issued by a First Class Magistrate should be furnished at the time of verification of documents.

v) Recent passport size coloured photographs (front face) with light background as per specification should be pasted on application form.

vi) All columns must be filled. **No column should be left blank, instead it should be marked "NA" wherever not applicable.** Incomplete or illegible or incorrectly filled or unsigned application form will be summarily rejected. Candidate must sign in the running script, not in block letters in the same language.

vii) Candidate must sign in running script and put his/her left thumb ink impression in relevant columns of application form which must be clearly visible.

4. Further, in para 9 of the advertisement it was clearly mentioned that the application form with any of the following deficiencies or irregularities will be treated as invalid and summarily rejected:

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- a. Application form not in prescribed OMR Format or Application form in Newspaper cutting or submitted before opening date or after closing date.
- b. Post name and Post Code(s) not filled up or incorrectly filled up.
- c. OMR application form not filled up or not filled up as per direction given in the Notice.
- d. Incomplete or illegible or incorrectly filled up applications.
- e. Without passport size coloured photograph (front face) with light background affixed on application form in the space provided. Affixing Black and White/polaroid and blurred photographs. Affixing more than one type of photograph.
- f. Without signature and left hand thumb ink impression in space provided.
- g. The application filled up in other than Blue/Black ball pen.
- h. Signature done in Block/Capital letters in English or in different languages and in different style/mode or any variance in the signature.
- i. The Left thumb ink impression not clearly visible.
- j. Applications not filled in by candidate in his/her own handwriting.
- k. Under/over aged candidates.
- l. Not having the requisite qualifications as on closing date.
- m. More than one application for the post by the same candidate for the same post.
- n. Applications of more than one candidate or more than one post code sent in one envelope.
- o. Application from a candidate debarred from appearing in the Exam by the DSSSB/SSC for life time or for a particular period.
- p. Any other irregularity

5. It was also clearly mentioned in the note below para 9 of the advertisement that **"No claim for re-consideration of the rejected cases on the grounds specified above will be entertained."**

6. Further, in para 11 of the said advertisement it was stipulated that the **candidature of the candidates will be cancelled in following conditions:**

"(i) The candidates applying for the posts should ensure that they fulfill all the eligibility conditions. Merely because a candidate has been allowed to appear in the examination will not be considered as a valid ground for his/her being eligible for the selection. **If on verification at any time before or after the written examination or at any stage of recruitment process, it is found that they do not fulfill any of the eligibility conditions, his/her candidature for the post applied for, will be cancelled by the Board/Appointing Authority.**

(ii) Candidates are cautioned that they should not furnish any incomplete or false information or indulge in impersonation or submit any document which is defective or fabricated or otherwise commit any act of misconduct in submitting the application forms or during the course of recruitment or fraudulently claim SC/ST/OBC etc. and other benefits. In the event if any such case is detected, the Board/Appointing Authority reserves its right to withdraw/cancel any selection and take legal action against the candidate concerned. The candidate may be permanently or for a specified period **debarred** from taking part in the recruitments conducted by the Board."

7. In para 14 of the said advertisement it was also laid down that the decision of the Delhi Subordinate Services Selection Board in all matters relating to eligibility, acceptance or rejection of the application, penalty for false information

/misconduct, mode of selection, conduct of examination(s) and allotment of Exam centers, selection and allotment of post/organizations to the selected candidates will be final and binding on the candidates and no enquiry/correspondence will be entertained in this regard.

8. Accordingly, all the application forms received against the posts of Librarian were scrutinized and lists of eligible and ineligible candidates were uploaded on the website of the Board by the Scrutiny Branch, **wherein applicants were instructed to submit their representations with documentary evidence, in case they have any objection about their eligibility/ineligibility.**

9. Some of the aggrieved candidates who were declared ineligible by the Board filed petition in the Hon'ble CAT and as per direction of the CAT provisional admit cards were issued to them and they were provisionally allowed to take the examination.

10. **Surbhi Maheshwari & Tripti Maheshwari** had also applied for the post code 3/13 and as per the RRs they were required to fulfill following qualifications:

(i) Sr. Secondary (10+2) or intermediate or its equivalent with 45% marks from a recognized Board.

(ii) Diploma/Certificate in Nursery Teacher Education Programme of duration of not less than two years Or B.Ed. (Nursery) from a recognized institutions or its equivalent.

(iii) Must have passed Hindi at Secondary level.

11. During the course of scrutiny of their application it was noticed that they had darkened the circle/bubble in his OMR application form relating to column "Whether debarred in any earlier Examination by DSSSB". The candidates had written/bubbled as "YES". Therefore, the Scrutiny Branch of the Board had rejected their application forms.

12. These candidates approached the Hon'ble CAT with the submission that both the applicants without understanding the repercussion of the same (i.e. debarred) had darkened the circle reading as "Yes" against items/entry reading as "Whether debarred in any earlier examination by DSSSB". It is further submitted that both the applicant filled the application without understanding the contents of the same.

13. The Board conducted combined examination on 31/08/2014 for the posts of Asstt. Teacher (Post code 68/10 and 03/13). All the candidates who were issued provisional admit cards on the direction of Hon'ble CAT were also considered as valid candidate for the post codes for which they were allowed provisionally by the Hon'ble CAT.

14. Surbhi Maheshwari & Tripti Maheshwari filed a petition in the Hon'ble CAT in the year 2015 bearing O.A. No. 4313/2015.

15. The Hon'ble CAT vide order dated 08.04.2016 in O.A. No. 4313/2015 in the matter of Surbhi Maheshwari & Tripti Maheshwari Vs. DSSSB directed the DSSSB as Under:-

"On 14/03/2016 itself, the result of two applicants had been produced in a sealed cover from which it has been seen that the applicant No. 2 had obtained above the cut off marks, and applicant No. 1 had obtained marks below the cut off marks. In para 13 of the additional affidavit filed today, the respondent have categorically submitted that, therefore, they will now be considering the case of the applicant No. 2, in view of the directions passed by this Tribunal in the case of similarly placed OA 1986/2013 dated 02/07/2014. Allowed. The applicant shall be do so within a period of four weeks in accordance with rules and procedure."

16. The case of the applicant was again examined in light of the Hon'ble CAT order dated 08/04/2016 in OA NO. 4313/2015 whereupon it has been observed that:-

- (i) As per the OMR application forms of Surbhi Maheshwari & Tripti Maheshwari they had darkened the curcle/bubble in their OMR application forms relating to column **"Whether debarred in any earlier Examination by DSSSB"**. The candidates had written/bubbled as **"Yes"**.
- (ii) The instructions laid down in the para 8. Vi. of the advertisement clearly state, "All columns must be filled. No column should be left blank, instead it should be marked "NA" wherever not applicable. Incomplete or illegible or incorrectly filled or unsigned application form will be summarily rejected. Candidate must sign in the running script, not in block letters in the same language." Since, Surbhi Maheshwari & Tripti Maheshwari did not follow the said instruction and they had filled OMR application incorrectly, their applications were rightly rejected.
- (iii) Further, the instructions laid down in the para 9 of the advertisement provide that;
 - c. *OMR application form not filled up or not filled up as per direction given in the Notice.*
 - d. *Incomplete or illegible or incorrectly filled up applications.*
 Since, Surbhi Maheshwari & Tripti Maheshwari did not follow the aforesaid instructions and they bubbled/darkened the circle of "Yes" relating to the column "Whether debarred in any earlier Examination by DSSSB" OMR application form was incorrectly filled, their application forms were therefore rightly rejected.
- (iv) Candidates were also cautioned in the para 11. (ii) of advertisement that they should not furnish any incomplete or false information or indulge in impersonation or submit any document which is defective or fabricated or otherwise commit any act of misconduct in submitting the application forms or during the course of recruitment or fraudulently claim SC/ST/OBC etc. and other benefits. In the event if any such case is detected, the Board/Appointing Authority reserves its right to withdraw/cancel any selection and take legal action against the candidate concerned. The candidate may be permanently or for a specified

period **debarred** from taking part in the recruitments conducted by the Board. Since, the application form of Surbhi Maheshwari & Tripti Maheshwari was incorrectly filled, their application forms were therefore rightly rejected.

- (v) Surbhi Maheshwari & Tripti Maheshwari filed their application in the Hon'ble CAT in the year 2015.

- (vi) In this connection it is pertinent to refer Hon'ble Tribunal order dated 12/08/2016 in a similar O.A. no. 4572/2014 titled as Devender Yadav & Ors Vs. DSSSB & Ors

- (vii) wherein it was, inter alia, held that the applicants in the case cannot claim to be provided with a more favorable consideration than others have been provided by the respondents. The operative part of the order is as under:-

"21In spite of the categorical findings recorded by the Division Bench of the Hon'ble Delhi High Court in the case of Aruna Meena Vs. Union of India and Anr.(supra), even that case had not been pointed out before, and noticed by the Coordinate Bench, while delivering its judgment on 18.12.2015 in **Neha Nagar Vs. DSSSB & Ors.**(supra).

22. We in respectful agreement with the Division Bench judgment of Hon'ble Delhi High Court in **Aruna Meena Vs. Union of India and Anr.** (supra), and we are bound by it, as well as the Single Bench judgment of the Hon'ble Rajasthan High Court in Manoj Kumar (supra), and are therefore, as a result, unable to follow the Coordinate Bench judgment in **Neha Nagar Vs. DSSSB & Ors** (supra) and other related cases. The applicants ought to have been vigilant while filling up their application forms, and when they had failed to do so, no indulgence can be granted to them on any sympathetic considerations. The Hon'ble Apex Court has also in the case of **State of Tamil Nadu & Ors Vs. St. Joseph Teachers Training Institute & Anr.,** (1991) 3 SCC 87: JT 1991 (2) SC 343, held that mere humanitarian grounds cannot form the basis for granting reliefs against the settled propositions of law, or contrary to law, and when an instruction or yardstick prescribed in the concerned advertisement has been applied uniformly in the case of all other candidates, the three applicants before us cannot claim to be provided with a more favourable consideration than others have been provided by the respondents.

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17. Keeping in view all the aforesaid facts and circumstances and order dated 12/08/2016 in a similar O.A. no. 4572/2014 titled as Devender Yadav & Ors Vs. DSSSB & Ors of Hon'ble Tribunal, it has been decided that although the candidate viz. **Surbhi Maheshwari & Tripti Maheshwari** fulfils the qualifications of the posts as prescribed in the RRs, yet **he can't be considered as a valid candidates for the Post Code 03/13 for the post of Asstt. Teacher (Nursery)** for which they are claiming the benefit for the reasons recorded in the preceding paragraphs. **The case of Surbhi Maheshwari & Tripti Maheshwari is accordingly disposed off.**

18. This issues with the approval of Competent Authority and in compliance of the directions of Hon'ble CAT.

19. Let this order be served upon the above-mentioned applicant through Speed Post.

 03/4/17
Deputy Secretary
Confidential Cell-I

1. Sh. Surbhi Maheshwari
R/o A-32, Ganga Vihar,
Delhi-110094.

2. Sh. Tripti Maheshwari
R/o A-32, Ganga Vihar,
Delhi-110094.

Copy forwarded for information to:

1. PS to Chairman.
2. PS to Member, DSSSB
3. PA to COE, DSSSB.
- ✓ 4. SA (IT) with the request to upload on Board's Website.