



GOVERNMENT OF NCT OF DELHI
Delhi Subordinate Services Selection Board
FC-18, INSTITUTIONAL AREA, KARKARDOOMA, DELHI-110092
Website: www.dsssb.delhigovt.nic.in

No.F.283/Result/PET/CC-III/DSSSB/2020-21/1442-49

Dated: 10.6.2022

ORDER

This order shall dispose off the representation of Sh. Nishant Verma (Roll No. 111208700053) dated 14.02.2022, in compliance of the directions of Hon'ble CAT order dated 29.11.2021 in OA No.2625/2021 in the matter of Nishant Verma Vs. DSSSB.

2. Whereas the applicant approached Hon'ble CAT vide OA No.2625/2021 with MA No.3256/2021 raising his concern about the examination scheme vis-à-vis the examination scheme of post code 210/14 & 90/17 vide which the recruitment of Physical Education Teacher was done previously by DSSSB for Directorate of Education.

3. Whereas the Hon'ble CAT while disposing the Original Application No. 2625/2021 has directed inter alia, that ***"the DSSSB to decide the representation of the applicant by passing a reasoned and speaking order, within a period of two months from the date of receipt of a copy of this order, under intimation to the applicants. While doing so, applicant may be given an opportunity of being heard. The above observation/direction has been given without going into the merits of the case. There shall be no order as to costs."***

4. Whereas in compliance, the respondent board has given him opportunity vide letter no. 184 dated 24.01.2022 to give representation in addition to his earlier grievance in which he had approached Hon'ble CAT. Accordingly, the board has received a representation of the applicant dated 14.02.2022, wherein he has requested to consider his candidature for uploading of E-dossier as per his merit. He further contended that the examination scheme prescribed for post code 87/20 is not in consonance with earlier recruitment process conducted for the post of Physical Education Teacher.

5. Whereas the representation of the applicant stated that DSSSB in its previous recruitment exams conducted for the post of Physical Education Teacher in post codes 210/14 and 90/17, the aggregate marks of both the Sections A and B was considered as qualifying marks by the DSSSB. However, in the instant post code 87/20 for post of Physical Education Teacher, it is required to secure the minimum qualifying marks in Section A & B separately as well as in aggregate. Thus, he was aggrieved that though he got in total 75.78 marks out of 200 (minimum qualifying of OBC category 70 marks) yet he was not short listed for uploading of E-dossiers. The applicant had also cited the DSSSB Corrigendum No.F.2(171)/DSSSB/P&P/2017/836 dated 06.10.2018 wherein it was stated that the condition of qualifying separately in both the Sections A and B was not applicable for five post codes including post code 90/17 for the Post of Physical Education Teacher.

6. Whereas the DSSSB issued a new examination scheme vide notice No.F.4(100)/2012/P&P/NES/DSSSB/3092-97 dated 03.01.2020 for the recruitment to the posts of Physical Education Teacher, Drawing Teacher, Domestic Science Teacher

and Music Teacher notifying the examination scheme under the instant post code wherein it was clearly stated that **"Further, the candidate must have to qualify in Section A & B separately by securing minimum qualifying marks in their respective category (UR/OBC/SC/ST/Ex-SM/PH). However, final merit will be prepared on the basis of aggregate marks of both the sections A & B"**. Accordingly, on the requisition of the user department, the DSSSB has advertised for the post of Physical Education Teacher having post code 87/20 vide its advertisement No. 04/20 dated. 4/1/2020 for a total of 692 vacancies (including EWS-27, UR-249, OBC-253, SC-84, ST-79). Further, in Annexure -I of the said advertisement at Note (i) it was clearly mentioned about the aforesaid criteria of minimum qualifying marks in each section separately for the post code 87/20. This criteria was uniform for all the candidates who have applied for the post of Physical Education Teacher.

7. Whereas the online examination was held on 02.08.2021 and subsequently marks were declared on 02.11.2021 for 9018 candidates and on the basis of examination, a total of 858 candidates had qualified the exam as per examination scheme and shortlisted for uploading of E-dossier as per merit. The shortlisted candidates were asked to upload the e-dossier during the period from 08.11.2021 to 22.11.2021. The cut off marks of different categories for uploading document in E-dossier are UR-90.56, EWS-81.56, OBC-71.56, SC-64.35, ST-72.49.

8. Whereas Sh. Nishant Verma who had appeared in examination of post code 87/20 as OBC candidate, had scored an aggregate of 75.78 marks. However, he had scored 42.28 marks in Section A and 33.50 marks in Section B. The applicant needed to score 35% marks separately in both Sections A and B to qualify as per the examination scheme dated 03/01/2020. However, he could not qualify in Section B. Thus, he could not get shortlisted for uploading of E-dossiers as per his merit.

9. Whereas the applicant's representations were examined in detail and it is stated that DSSSB is mandated to initiate recruitment process of various post codes on the requisition of concerned Departments of Government of NCT of Delhi. The Board does not change the eligibility condition after advertisement as doing so, making few applicants eligible/ineligible, would be in violation of decision given by the **Apex Court in Civil Appeal Nos. 2634/2013 and 1313/2008 whereby it has observed that the "Rule of the Game" cannot be changed once the game has started i.e., essential eligibility criteria of a post cannot be changed once the advertisement has been issued.**

10. Whereas, Sh. Nishant Verma never raised his reservation about the examination scheme of post code 87/20 before appearing in the examination and only after being unsuccessful in the exam, as an afterthought he is raising his reservation about the examination scheme of 87/20. It is stated that any deviation in examination scheme at this stage is not tenable and against the principal of natural justice.

11. Whereas the DSSSB has notified the examination scheme vide notice dated 28.07.2017 read with corrigendum dated 06.10.2018. The notice dated 28.07.2017, stated that the post of TGT, Primary, Nursery, Asstt. Teacher where applicants have to qualify separately in both Section-A & B. However, this scheme was not applicable for the posts of Spl. Education Teacher, Spl. Educator and other teaching posts like Physical Education Teacher, Drawing Teacher, Domestic Science Teacher, Music Teacher and the same was rectified vide corrigendum dated 06.10.2018. It is pertinent to mention herein



that the said corrigendum was valid only for five posts codes including post code 90/17 for the post of Physical Education Teacher. Further, the said notice has no bearing on the advertisement No. 04/2020 issued for the post code 87/20.

12. Whereas in the case of Post code 87/20 there was no such ambiguity in the examination scheme and it was clearly mentioned in the DSSSB notice dated 03.01.2020 and Advt. No. 04/2020 dated 4.1.2020 that the candidate of post code 87/20 Physical Education Teacher (included in the Advt No.04/20) must have to qualify in the Section-A & B separately in his/her respective category. However the final merit will be prepared on the basis of aggregate marks of both the sections A & B.

13. Whereas, in pursuance of direction of Ld. Tribunal vide order dated 29.11.2021, the applicant was given personal hearing also on 13.05.2022 vide letter dated 09.05.2022 by the competent authority of the board. The applicant present at the hearing stressed on the fact that in 2017 the examination scheme criteria was qualifying the exam in aggregate of Section A and Section B of exam but in post code 87/20 vide advertisement no. 04/20 of DSSSB, it was required to qualify in both the Sections A and B separately which is injustice to him. In this regard it is stated that examination scheme for the post code 87/20 is strictly based on notice dated 03.01.2020 and it is uniform for all the candidate who had applied for the post. He was also explained that after conduction of an exam the rule cannot be changed and this principle of DSSSB has been upheld by Court of Law.

14. The representations were considered and not found tenable in view of the above. Hence, the same is rejected being devoid of merit.

This issue with the approval of Chairman, DSSSB.


Dy. Secretary (DSSSB)

To,

**Sh Nishant Verma
S/o Sh Brahm Pakash
R/o 170B, Molarband Village,
Badarpur, Delhi-110 044.**