



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.288/Result/TGT(Sanskrit)/M/CC-III/DSSSB/2021-22/13-18 Dated: 02/01/2023

ORDER

SUB: - Representation of Sh. Mahesh Kumar Swami to consider his candidature for the post of TGT (Sanskrit), Post Code-54/21 as successful despite being overage.

A representation has been received vide diary no. 6176 on 31/10/2022 from Sh. Mahesh Kumar Swami, a candidate/applicant for the post of TGT (Sanskrit) Post Code -54/21 in UR category having 866 vacancies. He has stated that he applied for aforesaid post and secured 121.47 marks. The cut off marks for above said post were 82.68 in UR category. He has further stated that his candidature has been rejected due to overage. He has further mentioned that he became overage by 10 months and 18 days.

As per representation, he has informed that there is no recruitment during 2017-21 and he got overage by 10 month and 18 days for abovementioned recruitment i.e., June 2021. Further, he mentioned that due to Pandemic Covid-19 in 2019-20 there was no exam by the DSSSB. He has requested to consider his marks and give exemption for relaxation in age and declare his candidature as successful candidate on above grounds since there are 454 vacant posts still remained after recruitment of qualifying candidates.

Sh. Mahesh Kumar Swami has earlier filed a court case before Hon'ble CAT of Delhi vide OA No. 2572/2022 for above similar request. As per order dated 14/10/2022 in OA No. 2572/2022 in the matter of Mahesh Kumar Swami Vs GNCT & Ors, it has been directed that:-

" In our considered view, since a specific direction for relaxation of rules is being sought from us, it would be premature for us to interfere in the matter until and unless the competent authority amongst the respondents has taken a decision in the matter, in accordance with the rules and law applicable. Accordingly, without going into the merits of the claim of the applicant or the averments made in the OA, and with the consent of the learned counsels for the parties, we dispose of this OA, at the admission stage itself, with a direction to the respondents, that should the applicant make a comprehensive representation with regard to the subject at hand, the said authority shall decide the same within a period of six weeks from the date of receipt of the said representation. The applicant meanwhile is afforded a liberty of two weeks to make such a representation. While disposing of the OA in the light and background of these directions, we would emphasize that we have neither examined nor commented upon the merits of the claim of the applicant."

As per record, it has been found that the DSSSB vide advertisement No. 03/2021 dated 04.06.2021 had advertised 866 vacancies (UR-390, EWS-25, OBC-275, SC-115, ST-61, PH/OH-19, PH/VH-16) for the post of TGT (Sanskrit) Male; Post Code-54/21 in Directorate of Education with closing date of application as 03/07/2021 (i.e., Cutoff date for determining the eligibility). The online exam was held on 05.09.2021.

Based on the performance in examination, a total of 763 candidates who qualified the exam in two sections in their respective category were shortlisted for uploading the E-dossier w.e.f. 21/12/2021 to 04/01/2022 vide notice dated 15/12/2021. Accordingly, after scrutinizing the documents, as uploaded by shortlisted candidate in their E-dossier, the two opportunities were given to those candidates who have some deficiency in their uploaded documents vide notice dated 01/4/2022 and 21/4/2022 respectively.

Further, on the basis of merit and after preliminary scrutiny of the documents, as per the provisions of the statutory RR's for the post of TGT (Sanskrit) Male, Post Code 54/21 and terms and conditions of the advertisement No. 03/2021 issued Main Result Notice No. 874 dated 20.06.2022 wherein a total of 454 candidates (UR-270 incl 11 PH/OH, 06 PH/VH EWS-01 incl. 01PH/OH, OBC-07, SC-115, ST-61 incl. 01 PH/OH) were provisionally nominated as per their merit. Further, as per Result vide Notice No. 874 dated 20.06.2022, a total of 36 candidates are also provisionally shortlisted in waiting panel list. Though there are still vacancy of 412 remained but these cannot be filled through ineligible or unqualified candidates as per law and applicable rules. Sh. Mahesh Kumar Swami wants his candidature successful and has taken a ground of vacancies after recruitment even if ineligible due to overage which is not logical and permissible as per law.

Moreover while applying for the post through OARS portal he declared his category as UR-PHOB Category candidate. Accordingly, he was issued admit card with Roll No. 113505400054 for appearing in the exam, conducted on 05.09.2021 in UR-(PHOB) category. On the basis of examination he secured 121.47 marks. As per merit he was shortlisted for uploading of E-dossier w.e.f. 21/12/2021 to 04/01/2022 in the category of UR-(PHOB). He uploaded his documents in E-Dossier accordingly. He failed to upload any document to claim age relaxation though given two opportunities vide notice dated 01/4/2022 and 21/4/2022 respectively.

Sh. Mahesh Kumar Swami informed through undertaking on 23/12/2022 that he by mistake, filled his form as UR (PH-OB) category candidate. Here it is important to consider that it is the responsibility of the candidate itself to fill the application form correctly in OARS Portal and any false information stated in it would be the liability of the candidate itself. Moreover, there use to be a preview before submitting the form which clearly show what particular he is going to submit.

That the age limit in this post code was set up as below 32 years as per advertisement. The date of birth of the candidate is 15/08/1988 and last date for filling up that application form vis-a-vis date for consideration of eligible/cut off age is 03/07/2021. He is found overage by 10 months and 18 days. It is also found that he wanted to change his category from UR-PH(OB) having age relaxation of five years to UR category on the pretext of filling form wrongly by mistake.



It is also to be seen that as per advertisement no. 03/2021, para 6.ii, it was stated that:-

"The candidate has to select that particular category when applying online for the post. No request for change of Category will be entertained at any later stage."

Therefore, the category cannot be changed under any circumstance at this belated stage. He has wrongly filled his category which may be a bonafide mistake or with malafide intention.

Further, the applicant has given handwritten self declaration on the day of examination in Photo Attendance Sheet both in English as well as Hindi, his handwritten declaration in English is quoted as under:-

"I certify that I am the person whose name roll no. and photograph appear on this E-Admit Card I hereby declared that the information given in the application is true and correct to the best of my knowledge and belief. In case any information given in this application proves to be false or incorrect, I shall be responsible for the consequences."

Hence his candidature was rejected vide Rejection Notice No. 875 dated 20/06/2022 with the following remarks:-

"Overage. The candidate is overage by 10 months 18 days. He has applied under PHOB Category but not uploaded any supporting documents i.e., PH certificate. He has uploaded an affidavit stating that due to technical error, he had applied PHOB category inadvertently but he does not belong to this category. The candidate was directed to upload relevant documents with regard to relaxation in age but failed to upload the same. Hence, rejected for being overage."

As far as the contention made by applicant in his representation that board has not advertised the vacancy during the period 2017-21 and due to that he became overage, which is found incorrect as the user department i.e., Directorate of Education had indeed given its requisition in the year 2017 and accordingly DSSSB vide its advertisement no. 04/17 dated 20.12.2017 had advertised for the post of TGT (Sanskrit) Male (post code 144/17) for 144 vacancies, its result was declared on 23.04.2019 followed with recruitment process. Thereafter, the user department has submitted requisitions to the Board for the post of TGT Sanskrit (Male) having total 866 vacancies with category/gender/subject wise bifurcation of vacancies as per reservation roster being maintained by them, accordingly, the board has advertised the aforesaid 866 vacancies for the post of TGT (Sanskrit) Male post code 54/21 vide advertisement no. 03/21 dated 27.05.2021. Hence, the logic given for becoming overage due to no exam from 2017 to 2021 is misleading and baseless.

Further, the Board, has been mandated to recommend suitable candidates for appointment in various departments of GNCT of Delhi and local bodies/PSUs under the



direct recruitment quota to Group 'B' (non-gazette) & Group 'C' categories of posts. The process at DSSSB starts after receipt of requisition given by the indenting department specifying eligibility conditions including age criteria and relaxations, if any, to specified castes and categories, etc. The Board does not alter in number of vacancies, eligibility conditions as given by the user department in their requisition.

It is also worthwhile to submit that DSSSB cannot change the criteria of age relaxation at this stage as per prayer of applicant as by doing so, it will be a benefit to an individual, making few applicants eligible/ineligible, moreover it **would be violation of decision given by the Apex Court in Civil Appeal Nos.2634/2013 and 1313/2008 titled as Tej Prakash Pathak & Ors vs Rajasthan High Court & Ors** whereby it has been observed that the "Rule of the Game" cannot be changed once the game has started i.e. in the midway once the advertisement has been issued. It will be gross injustice with those who could not qualify because of not attaining minimum qualifying marks as prayed by applicants. Further, it will open the Pandora box i.e. all the results processed by the Board in various Post Codes will need to be reviewed/amended, which is also against the principle of natural justice.

In view of aforementioned facts, his candidature was rightly rejected vide rejection notice no. 875 for the reason being "overage" by 10 month and 18 days. The one time age relaxation as claimed by petitioner is baseless and without any logical justification.

Now, in light of Ld. CAT order dated 14.10.2022, the representation dated 31.10.2022 was examined in detail and not found tenable as per law and applicable rules, being devoid of merit, baseless and hence same is rejected.

This issues with the approval of Chairman, DSSSB.


Deputy Secretary, DSSSB

To,
Mahesh Kumar Swami,
S/o Kanhaiya Lal Swami
Village- Thikariya,
Post - Sureli,
District-Tonk, Rajasthan-304024