



GOVERNMENT OF NCT OF DELHI
DELHI SUBORDINATE SERVICES SELECTION BOARD
FC-18, INSTITUTIONAL AREA, KARKARDOOMA, DELHI-110092

F. (8855)/LC/DSSSB/2023/ 380-84

Dated: 04/09/2023

ORDER

1. This order shall dispose of the representation dated 04.05.2023 filed by Sh. Aiklavya (Roll No. 2830002697), a candidate for the post of Grade-II (DASS) under Post Code-40/13 in Services Department in compliance of the directions of Hon'ble Central Administrative Tribunal order dated 07.07.2023 in OA No. 1931/2023, in the matter of Aiklavya V/s Govt. of NCT of Delhi and Ors.
2. The Hon'ble Tribunal while disposing the Original Application No. 1931/2023 has directed to the respondents to decide the pending representation dated 04.05.2023 of the applicant within a period of six weeks from the receipt of a copy of the said order. Copy of the representation is found annexed with O.A. as Annexure A-1. The applicant vide his representation dated 09.05.2022 has stated as under:-

"4. In view of the limited prayer made by learned counsel for the applicant, respondents are hereby directed to dispose of the representation of the applicant dated 04.05.2023 by passing a reasoned and speaking order, within a period of six weeks from the date of receipt of a certified copy of this order. It is made clear that we have not entered into the merits of the case. A copy of the speaking order, so passed, be given to the applicant. This disposes of OA No. 1931/2023.

5. No order as to costs."

BRIEF FACTS OF THE CASE ARE AS UNDER:

3. As per requisition received from the Services Department, Govt. of NCT of Delhi, DSSSB advertised the following vacancies vide Advertisement No. 03/13 for the post of Grade-II (DASS)/ 40/13. The details of the vacancies are as under:

Total	UR	OBC	SC	ST	EX*	Sports*	OH*	HH*	VH*
313	185	59	50	19	31	16	4	4	6

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4. The prescribed cut-off date for determining the eligibility of the posts was **18.10.2013**. Candidates were directed to upload their e-dossiers vide Notice No. 764 dated 07.02.2019. Final selection was made on the basis of marks obtained by candidates in the Tier-II Examinations. The result was declared vide Result Notice No. 772 dated 11.04.2019. Waitlist Panel was valid upto 10.04.2020
5. Sh. Aiklavya (Roll No. 2830002697), applied for the said Post and his details are as under:

Name & D.o.B.	Category & Roll No.	Marks obtained	Remarks
Sh. Aiklavya 17.05.1990	UR 2830002697 (Tier-II)	118.00	As per merit Waitlist 72

6. Sh. Aiklavya was also shortlisted for uploading of e-dossier as he obtained qualifying marks for uploading of e-dossiers vide Notice No. 764 dated 07.02.2019. Cut off marks for uploading of e-dossier for UR category was 112.75.
7. Sh. Aiklavya could not be selected finally as he obtained less marks than the last selected candidate under UR category. Marks of the last selected candidate in UR category was 120.25 vide Supplementary Result Notice No. 984 dated 22.05.2020.
8. Aggrieved by his non-selection Sh. Aiklavya filed O.A. No. 1931/2023 has prayed for filling of 45 vacancies, which were returned to User Department, on account of non-filling of 45 vacancies under Horizontal reservation.
9. It is stated that in Postcode 40/13, total 61 vacancies were reserved under Horizontal category (for ExSM-31, Sportsperson-16, Physically handicapped-14. Out of 61 vacancies only 16 were filled up. Therefore, the DSSSB had to keep 45 vacancies unfilled for returning to the User Department. For implementing this, the total unfilled horizontal vacancies in postcode 40/13 were also proportionately distributed amongst the vertical categories UR (27), OBC (8), SC (7) and ST (3) category and returned the User Department abovementioned vide No. F.1(327)/CC-II/DSSSB/2017/5715-21/2353-55 dated 23.04.2019 as suitable candidates were not available under the Horizontal reservation categories against these vacancies.
10. It is stated that as per Rule 4 (3) of Ex-servicemen (Re-employment in Central Civil Services and Posts) Rules, 1979, it has been specified that:



"No vacancy reserved for Ex-servicemen in a post to- be filled otherwise than on the results of an open competitive examination shall be filled by the Appointing Authority by any general candidate, until and unless the said authority-

- (i) Has obtained, a 'Non-availability Certificate' from the employment exchange (where a requisition is placed on an employment exchange)
- (ii) Has verified the non-availability of a suitable candidate by reference to the Director-General, Resettlement and recorded a certificate to that effect; and
- (iii) Has obtained approval of the Central Government.

11. As regards the Ex-Servicemen category, DOPT OM dated 12.03.1987 amendment dated 20.03.1987 provides that the vacancies reserved for Ex-servicemen but not filled in an any particular year is added to the number of posts falling to the share of Ex-servicemen, in the next year subject to the condition that the upper ceiling of 50% for total reservation is adhered to. However, de-reservation of vacancies reserved for Ex-servicemen cannot be done without being carried forward for at least one year before de-reservation .
12. Further, as regards to the Sportsmen category, there is no provision in DoPT Guidelines to fill vacancies reserved for Sportsperson with the candidates other than Sportsperson in the same recruitment year, if suitable Sportsperson candidates are not available.
13. Further as per the DOPT OM dated 29.12.2005, 15.11.2018 and other OM's issued from time to time, the unfilled vacancies under PH category shall be carried forward in the succeeding recruitment year.
14. Further, as regards to the PwD/PH category, there is no provision in DoPT guidelines to de-reserve the vacancies in the same recruiting year. The Gazette Notification dated 28.12.2016 on the Right of the PwD Act specifies that if any vacancy reserved for any category of disability cannot be filled due to non-availability of a suitable person with that disability or, for any other sufficient reason, such vacancy shall not be filled and shall be carried forward in the subsequent recruitment year.

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15. From the above it is very clear that the DSSSB cannot nominate the candidates from the non-horizontally reserved category against the un-filled horizontally reserved vacancies as the same is not permissible under the Rules.
16. Therefore, DSSSB had returned the 45 vacancies as per law on account of unfilled Horizontal vacancies.
17. It is also stated that the User Department has already included the 45 un-filled vacancies (27 under UR category) of Post Code 40/13 in the next requisition i.e. Post Code No. 81/17 vide the Addendum dated 09.07.2019 by the DSSSB. The recruitment process for the said Post Code 81/17 has also been closed long back vide Result Notice No. 1326 dated 09.12.2021.
18. Moreover, the applicant in O.A., Sh. Aiklavya (Roll No. 2830002697) is waitlist - 72 candidate and last selected candidate in the Post Code 40/13 was Waitlist 15, vide Supplementary Result Notice No. 984 dated 22.05.2020. There are 55 candidates above Sh. Aiklavya in merit and vacancies returned under UR category were only 27.
19. Further, the O.A. is highly time barred by more than 1500 days as result for the Post Code 40/13 was declared on 11.04.2019 Result Notice No. 772 dated 11.04.2019. Waiting Panel was also expired on 10.04.2020.
20. In view of above, the candidature of applicant in O.A. namely Sh. Aiklavya (Roll No. 2830002697) cannot be considered for the post of Grade-II (DASS) under Post Code-40/13 in Services Department as he is not in consideration zone being too lower in merit.
21. This issues with the approval of Competent Authority and in compliance of the directions of Hon'ble Central Administrative Tribunal vide order dated 07.07.2023 in OA No. 1931/2023, in the matter of Aiklavya V/s Govt. of NCT of Delhi and Ors.
22. Let this order be served upon Sh. Aiklavya (Roll No. 2830002697) candidate post of Grade-II (DASS) under Post Code-40/13.



Dy. Secretary, DSSSB

Sh.Aiklavya,
F. No. 73, Sector 2,
Pocket 3, Rohini,
Delhi-110085

F. (8855)/LC/DSSSB/2023/380-84

Dated: 04/09/2023

Copy for information and necessary action to:

1. Sr. PA to Chairperson.
2. PA to COE, DSSSB
3. Dy. Secretary (Legal), for information of Govt. Counsel
4. SA (IT), DSSSB for uploading the order on the website of the Board.
5. Guard file.


Dy. Secretary
DSSSB