



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.No.1(430)/CC-II/DSSSB/2020/11068-70

Dated: 29/12/2020

ORDER

This order shall dispose of the representation dated 24/09/2020 filed by Sh. Himanshu (Roll No. 11340600702), a candidate for the post of Lower Division Clerk, Post Code-51/13 in Municipal Corporation of Delhi in compliance of the directions of Hon'ble CAT order dated 09/11/2020 in OA No.1751/2020 and MA No. 2261/2020, in the matter of Sh. Himanshu V/s Govt. of NCT of Delhi and ors.

2. The Hon'ble CAT while disposing the Original Application No.1751/2020 has directed to the respondents to decide the pending representation dated 24/09/2020 of the applicant within a period of three weeks under advice to the applicant:-

3. That the applicant vides his representation dated 24/09/2020 has prayed as under:-

That in the year 2013, the DSSSB notified vacancies under post code 51/13, Lower Division Clerk in MCD. The applicant Himanshu (Roll No. 11340600702), DOB: - 14/02/1992, S/O Jairaj, inadvertently, applied in the post code 51/13 as UR Category Candidate. However, he belongs to Scheduled Caste Category and was in possession of Scheduled Caste Certificate at the time of filing of application in the year 2013. Due to his mistake he neither applied in the Post Code as a SC Candidate nor uploaded the SC Certificate with application form of Post Code 51/13. The Board has declared the result on 23/09/2020 in which SC Category cut off has been declared 103.96 where as the candidate has obtained 112.56 marks. Since the candidate Sh. Himanshu belongs to SC Category therefore it has been requested by the Candidate to take on record his SC Certificate and to consider his candidature in SC Category in Post Code 51/13.

4. As per advertisement No. 03/2013, the total vacancies in Post Code 51/13 was advertised as 345 (UR-174, OBC-93, SC-52, ST-26 including EXSM-31, OH-04, HH-03, VH-03).

5. The prescribed cut off date for determining educational qualification, age, and other eligibility conditions against the post code was closing date for filing application that was 18/10/2013.

6. That vide Notice No. 1054 dated 23/09/2020, based on the performance in Tier I written examination out of 14,177 candidates who appeared in the Tier I Written Exam, total 2763 candidates were shortlisted for appearing in Skill Test/Typing Test as per details mentioned below:-

Vacancies	UR	OBC	SC	ST	EXSM	PH(OH)	PH(HH)	PH(VH)
345	174	93	52	26	31	04	3	3
Candidates shortlisted Total=2763	1357	737	409	208	15	32	2	3
Cut off marks out of 200 normalized marks	118.72	91.16	103.96	73.83	70	79.52	65.38	60.05

7. That as per Combined Merit List (CML) the Candidate Himanshu, UR Candidate having Roll No. 11340600702 has obtained 112.56 out of 200 marks, he has not been shortlisted in UR Category as in the UR Category 1357 candidates were shortlisted up to the cut off marks 118.72 vide Notice No. 1054 dated 23/09/2020.

8. That the applicant voluntarily fills up the form and it is incumbent upon him to indicate the category to which he/she belongs. That in the Admit Card issued to the candidate having roll no. 11340600702, the category of the candidate was UR, which was based on the information furnished by the candidate himself, and the candidate was fully aware of these facts while appearing in the written examination held on 25th October, 2019 that any information contained in attached certificates shall not be considered unless it is claimed in the application form. It is evident that the applicant herein had willfully chosen to appear as an UR candidate as despite this information being printed on the Admit Card itself, he preferred to appear in the examination without filing any objection/request in respect of change in category. The applicant only chose to inform the Board regarding this issue after declaration/release of marks vis-à-vis shortlisting of candidates for Skill Test/Typing Test in post code 51/13 vide notice dated 23/09/2020. This evidently was an afterthought on his part and as per the extant policy of the Board, no such request for change is allowed.

9. That as per provisions documents is being called from only those candidates who are shortlisted/allowed to upload e-dossier in their respective category, based on their performance in the written examination and being qualified in the skill test also. Further, this is also subject to attaining minimum qualifying marks and correctness of the information furnished by the candidates in their online application form.

10. That while at the time of filling in his/her application form in post code 51/13 it was declared by every candidate that:-

- I hereby certify that all statement made in this application are true, complete and correct to the best of my knowledge and belief and filled by me.*
- I also declare that I have submitted only one application for one post code in response to the advertisement.*
- I have read all the provisions mentioned in the advertisement of the examination carefully as published in the website of DSSSB and I hereby undertake to abide by them.*
- I understand that in the event of information being found false or found incorrect at any stage prescribed in the notice or any ineligibility being detected before or after the examination, my candidature/selection/appointment is liable to be cancelled/terminated automatically without any notice to me and action can be taken against me by the DSSSB.*

- e) *The information submitted herein shall be treated as final in respect of my candidature for the post applied for through this application form.*
- f) *I also declare that I have informed my Head of Office/Department in writing that I am applying for this post/examination (for Government Employees only).*

11. That vide advertisement no. 3/13 dated 12/09/2013 all the candidates of post code 51/13 were informed that:-

Note:-

1. *The candidate must apply Online only. No other mode of application shall be accepted.*
2. *The candidates must read the INSTRUCTIONS FOR APPLYING ONLINE carefully, which is available on the website of the Board, before filling up Online Application Form for the post(s) concerned. Application shall not be received in any other mode.*
3. *Benefit of reservation for various categories i.e. SC/ST/OBC etc. shall be given as per the policy of Govt. of Delhi.*
4. *Neither the print out of online application form nor any document should be sent to this Board at the time of applying to the post.*
5. *Only successful candidates will be required to submit copy of challan, legible self-attested/Gazetted officer attested/Notary attested copies of the documents along with the hard copy of print out of online application form at the time of verification of documents (any information contained in the attached certificates shall not be considered unless it is claimed in the application form).*

12. That the Apex Court allowed appeal in the case of Rajasthan High Court, Jodhpur V/s Neetu Harsh in Civil Appeal No. 6696/2019 vide order dated 29/08/2019 and has held as under:-

"15. That apart, though it is contended by the private respondent that it was a mistake in indicating "No" against the Column 3.1- 'Person with Disability', what is necessary to be taken note is that against column 2.4- 'Category', it has been stated as "General". That apart the examination fee fixed for general candidates is Rs. 250/- while for the eligible disabled applicant it is fixed at Rs. 50/- . The private respondent in addition to indicating her category as 'General' has paid the fee of Rs. 250/- as applicable. Further, though the disability certificate dated 05/07/2010 is presently relied upon, there is no material to indicate that the same was enclosed along with the application or produced till the completion of interview. On this aspect, to contend that the private respondent cannot make a contrary claim, the learned senior counsel for the applicants herein has relied on the decision in the case of J&K Public Service Commission V/s Israr Ahmad (2005) 12 SCC 498 wherein it is held in para 5 as hereunder:

"5. We have considered the rival contentions advanced by both the parties. The contention of the first respondent cannot be accepted as he has not applied for selection as candidate entitled to get reservation. He did not produce any certificate along with the application. The fact that he has not availed of the benefit for the preliminary examination itself is sufficient to treat him as a candidate not entitled to get reservation. He passed the

preliminary examination as general candidate and at the subsequent stage of the main examination he cannot avail of reservation on the ground that he was successful in getting the required certificate only at a later stage. The nature and status of the candidate who was applying for the selection could only be treated alike and once a candidate has chosen to opt for a category to which he is entitled, he cannot later change the status and make fresh claim. The division bench was not correct in holding that as a candidate he had also had the qualification and the production of the certificate at a later stage would make him entitled to seek reservation. Therefore we set aside the judgment of the Division Bench and allow the appeal. No costs."

"16. Further the decision in the case of Registrar General, Calcutta High Court V/s Shrinivas Prasad Shah (2013) 12 SCC 364 is relied on, wherein this court has disallowed the claim in a case where in the application the category of reservation was indicated but certificate was not produced and the fee applicable to general candidate was paid. In addition, the learned senior counsel for the appellants herein also refers to the inherent contradictions in the claim for consideration under the category reserved for Differently Abled Persons is not made.

13. That a similar view has been taken by a Coordinate Bench of Delhi High Court in the case of Pooja Shrawat V. Govt. of NCT of Delhi in W.P. (C) No. 12563/2018 decided on 26/11/2018 and in somewhat similar matter titled Sonal Panwar V. DSSSB, through its Secretary in W. P. (C) No. 9464/2019. In the judgment of Pooja Sehrawat (supra) in para 15 it is mentioned that:-

"The position is not different when it comes to non-submission of a crucial document by a candidate on which his/her candidature is determined. The petitioner should have applied for and obtained the certificate by making the requisite application. Not having done so, she cannot expect the entire administration to work as per her wishes, at the cost of serious administrative inconvenience. If such relaxation were to be made, it would lead to an unending process, leading to confusion and chaos and delay in the declaration of the results. It would also not be fair to other similarly placed candidates who may have applied as General category candidates because they did not possess the caste certificate at the time of making the application."

14. That the WP (C) 11940/2019 in the matter of Amardeep V. Govt. of Delhi was dismissed by Hon'ble Delhi High Court vide judgment dated 15/11/2019 with a view that once the petitioner applied in the general category, it is not possible to change the category once the process had commenced. As far as the plea that an opportunity should have been given for uploading the deficient documents within 10 days in terms of the notice dated 12/10/2017, we are of the view that this would not be available to the petitioner.

15. That the Ld. CAT has dismissed an O.A. No. 2988/2019 vide its judgment dated 9/10/2019 wherein it has been mentioned that the entire process of receiving applications, tabulation of marks and selection of candidates, is through online system and human

intervention is virtually minimum. The social status of the candidate cannot be changed at this stage.

16. That applicant after an abnormal delay just preferred to file a time barred representation dated 24/09/2020 to the Board and subsequently filed OA No. 1751/2020 and M.A. No. 2261/2020 before the Central Administrative Tribunal seeking directions of Ld. CAT to the Board to decide the pending representation dated 24/09/2020 vide which it has been requested to the Board to take his SC Certificate on record and his candidature be considered as SC Candidate in place of UR candidate in the post code 51/13. Since Merit in the Post code 51/13 has already been freezed and thereafter candidates have already been shortlisted for appearing in Skill Test, considering SC Certificate of the candidate Himansu at this stage shall adversely affect candidature of already shortlisted SC candidate who has declared himself belongs to SC category at the time of filing of Application Form in post code 51/13. Filing of representation by the applicant after shortlisting of candidates in post code 51/13 vide Notice No. 1054 dated 23/09/2020 and subsequent filing of case evidently is an abuse of the process of law and accordingly the applicant has no case whatsoever and the entire process has been initiated by him as an afterthought. Hence his request cannot be acceded as a time barred action, as it is against the laid down policy of the Board and also against the law laid down by Hon'ble Supreme Court of India, Hon'ble High Courts and Ld. CAT as mentioned hereinabove as well.

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

18. Let this order be served upon Sh. HIMANSHU, Date of Birth:- 14/02/1992, S/o. JAIRAJ, having Roll No. 11340600702 in post code 51/13, Lower Division Clerk in Municipal Corporation of Delhi, having application no. 73868066, , R/o F-22, Mehar Chand Market, Lodhi Colony, New Delhi (as per application to the post) or F-22, MCD Flats, New Municipal Market, Lodhi Road, Delhi (Address in Representation dated 24/09/2020).


Dy. Secretary, DSSSB

Sh. HIMANSHU
S/o Sh. JAIRAJ,
R/o F-22, MCD Flats
New Municipal Market
Lodhi Road, Delhi