



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(7996)/LC/DSSSB/2021/936-938

Dated: 21.05.2021

ORDER

1. This order shall dispose of the representation dated 28/09/2020 filed by Sh. Deepak Malik (Roll No. 12380903505), a candidate for the post of Nursing Officer, Post Code-03/18 in Health and Family Welfare Department in compliance of the directions of Hon'ble Central Administrative Tribunal order dated 18/02/2021 in OA No.233/2021, in the matter of Sh. Deepak Malik V/s Govt. of NCT of Delhi and Ors.

2. The Hon'ble Tribunal while disposing the Original Application No.233/2021 has given the following direction:

"4. In view of the aforesaid without going into the merit of the claim of the applicant the present OA is disposed of with direction to the respondent No. 3 to consider the applicant's aforesaid representation (Annexure A-8) and to dispose of the same by passing an appropriate reasoned and speaking order as expeditiously as possible and in any case within six weeks of the date of receipt of a copy of this order.

5. OA is disposed of in the aforesaid terms. No Costs."

3. That the applicant vide his representation dated 28/09/2020 has stated as under:-

"This is to inform you that I have applied for the post of Nursing Officer (post Code 3/18) Advertisement number 02/2018 for which written exam was held on 27, 28,29,30 August and 30 September. I am an OBC beneficiary from birth but due to unavailability of certificate I had to fill my form under general category. now I had all my certificates which make me eligible for OBC category. I request you to submit my OBC certificate and consider my application for shifting of my candidature from general category to OBC category."

Facts of the Case

4. That as per advertisement No. 02/2018, the total vacancies in Post Code 03/18 was advertised as 684 (UR-345, OBC-185, SC-103, ST-51 including EXSM-68, OH (OL)-27. Later on vacancies in the above mentioned post code has been revised, which is mentioned below, vide

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Addendum to advertisement no. 02/2018 dated 26.08.2019. The revised vacancies were as 1024 (UR-516, OBC-277, SC-154, ST-77 including EXSM-102, OH (OL)-41.

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 13/08/2018. The written examination for the said post was conducted on 27th, 28th, 29th, 30th August and 30th September 2019.

6. The applicant in O.A. Sh. Deepak Malik applied for the Post under UR Category and appeared in the examination and his detail is as under:-

Sl. No.	Name	Category Applied	Roll No.	Marks Obtained
1	Deepak Malik	UR	12380903505	113.80

7. That vide Notice No. 873 dated 09/01/2020, marks of written examination were released and candidates were shortlisted for uploading e-dossier between 14.1.2020 to 28.01.2020. The cut off marks for shortlisting of candidate for uploading e-dossier was as under:-

Category	UR	OBC	SC	ST	ExSM	PH (OH)
Cut of marks for shortlisting of candidates for uploading e-dossiers	115.28	85.93	100.99	94.66	64.10 (SC)	60.17

Since the applicant Sh. Deepak Malik having Roll No. 12380903505 applied under UR category, he was not shortlisted for uploading the e-dossier.

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. 12380903505, 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 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 of result on 13.06.2020 for the post code 03/18. 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 while at the time of filling in his/her application form in post code 03/18 it was declared by every candidate that:-

- a) *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.*
- b) *I also declare that I have submitted only one application for one post code in response to the advertisement.*
- c) *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.*
- d) *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).*

10. That applicant after declaration of final Results filed OA No. 233/2021 before the Central Administrative Tribunal seeking directions of Ld. Tribunal to the Board to declare the applicant as eligible and selected candidate in OBC category for appointment to the post of Nursing Officer in H&FW Department, GNCTD. Further 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.

It is also pertinent to submit herein that it was declared by the candidate during filing the online application form that "the information submitted herein shall be treated as final in respect of my candidature for the post applied for through this application form". Further, it was also instructed to the candidates vide advertisement no. 02/18 that "*The successful candidates will be required to submit legible Self attested copies of the documents, Admit Card alongwith the hard copy of printout 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)."

11. As regards the following observation of Hon'ble Tribunal at para 1 in the order dated 18.02.2021 in the present case:

"The applicant made a representation (Annexure A-8) enclosing therewith an OBC certificate dated 28.09.2020 with a request for change of his category i.e. from General to OBC in the aforesaid selection process. Ld. Counsel for the applicant has argued that though the respondents have acceded to such request of similarly placed persons, however, the respondents have not declared the result of applicant in spite of the fact that the applicant has scored more marks than cut off marks under the OBC category."

In this regard it is stated that there is no case/instance wherein the DSSSB has allowed the change of category of candidate i.e. candidate has applied in UR/General category and after the declaration of result, the DSSSB has considered his/her candidature under reserved category i.e. OBC/SC/ST, either on the request of candidate or suo moto by the DSSSB.

Further, the Applicant has also not cited any such case in this matter.

Moreover, recently, Hon'ble Central Administrative Tribunal has upheld the version of the DSSSB in the OA No. 100/238/2021 titled as Himanshu Vs GNCT of Delhi & Ors. In the said OA, the applicant applied under UR category and after declaration of result made a representation to consider him as SC category candidate. Hon'ble Tribunal dismissed his O.A. on merit.

12. Further it is also pertinent to mention here that the information furnished by the applicant at the time of filing of application is treated to be final which clearly means that the said information cannot be changed later on and also specifically after the declaration of result. If such facility is extended to the candidates it will be never ending process and DSSSB will not be able to finalize its results and it will also disturb the selection of the candidates who have filed their applications after due diligence. Although the candidate/Counsel of candidates have claimed that DSSSB has been allowing such changes at the later stage but have not substantiated their claim with any documentary proof. DSSSB has prescribed procedure for obtaining documents from the candidates who are under zone of consideration. As per the said procedure the documents are called from such candidates in the online mode through e-dossier module only. There is no procedure for taking into consideration of documents sent through representation either through dak or email. The certificate submitted by the candidate vide his representation dated 28/09/2020 cannot be considered by the Board as the Board has never asked the candidate to submit the said Certificate as per policy stated above. Further, a similar view has been taken by a Coordinate Bench of Delhi High Court in the case of Pooja Sehrawat

Vs. Govt. of NCT of Delhi in W.P. (C) No. 12563/2018 decided on 26/11/2018 wherein it was stated by the Court *"that 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."*

13. 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."

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"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.

14. That a similar view has been taken by a Coordinate Bench of Delhi High Court in the case of Pooja Sehrawat 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."

15. 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.

16. 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.

17. That applicant after an abnormal delay just preferred to file a time barred representation dated 28/09/2020 to the Board and subsequently filed OA No. 233/2021 before the Ld. Central Administrative Tribunal seeking directions of Ld. CAT to the Board to consider his application

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for shifting of his candidature from general category to OBC category. Since Merit in the Post code 03/18 has already been freezed and final selection have been made, the request of candidate cannot be acceded to 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.

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 Sh. Deepak Malik, Date of Birth:- 24.10.1993, S/o Rajvir Malik, having Roll No. 12380903505 in post code 03/18, Nursing Officer in Health and Family Department, R/o H. No. 282/4 Shankar Garden Gali No. 2 Line Par Bahadurgarh (as per application to the post) or D-29, Mata Kasturi Devi Public School, Gopal Nagar Extn. Najafgarh, Gopal Nagar, New Delhi 110043 D-29, Mata Kasturi Devi School, Gopal Nagar Extn. Najafgarh, Gopal Nagar, New Delhi 110043 (Address in Representation dated 28/09/2020).


Dy. Secretary, DSSSB

Sh. Deepak Malik
D-29, Mata Kasturi Devi School,
Gopal Nagar Extn. Najafgarh,
Gopal Nagar, New Delhi 110043,

No.:- F.No.1(7996)/LC/DSSSB/2021/936-938

Dated: 21.05.2021

Copy to:-

1. System Analyst with the request to upload the order on the website of the Board.
2. Notice Board.


Dy. Secretary, DSSSB