F.No. 4(359)/DSSSB/CC-I/2010/4412-19   Dated:- 06|9|19

ORDER

Compliance of order/direction dated 22.02.2019 of the Hon'ble Central Administrative Tribunal as passed in OA No.3996/2014 titled as Sunil Kumar V/s DSSSB/Govt. of NCT Delhi & Others

This order is issued in supersession of this office Order Number F. No. 4(359)/DSSSB/CC-I/2010/4224-31 Dated 13/08/2019.

The Hon'ble CAT in OA No3996/2014 titled as Sunil Kumar V/s Govt. of NCT Delhi & Others vide its order dated 22.02.2019 has directed as under:-

> "4. *The respondents in their counter affidavit stated that in the said recruitment 13 vacancies were earmarked for SC category and only 9 candidates were available as such the remaining vacancies could not be filled up. They have further stated that as the applicant was SC outsider he was not considered under SC category and he was considered under the general category. In view of the law laid down by the Hon'ble Supreme Court referred to above and in view of the facts and circumstances that one post is kept vacant by order dated 04.04.2011 of the Hon'ble High Court of Delhi,* **OA is disposed of with a direction that applicant may submit a comprehensive representation to the respondents within 30 days of the receipt of this order and the respondents shall pass a reasoned and speaking order on the said representation within 30 days of submitting the representation by the applicant."**

In view of the direction of Hon'ble Court, a representation dated 20-05-2019 of Sh. Sunil Kumar has been received in the above matter for consideration. In his representation, he has mentioned that he applied as a Scheduled Case candidate for the post of TGT (Hindi) and secured 84 marks. The last candidate selected in the SC category for the said post secured only 73 marks. The undersigned was excluded because he was from outside Delhi (SC outsider). The matter was initially confined to one issue: whether in a Union Territory like Delhi a Scheduled Caste person from outside the Union Territory was entitled to reservation. Hon'ble Tribunal vide order dated 06-11-2013 in TA 43/2013, directed that DSSSB decide the matter in accordance with

the decision in Deepak Kumar's case which was not acted upon by DSSSB. A contempt petition No. 116/2014 was therefore filed by the applicant on 25-02-2014. The Hon'ble Tribunal disposed off the Contempt petition on 25-09-2014 recording liberty to the undersigned to challenge the respondents order dated 06-05-2014 in the fresh proceedings. He was also stated that the Hon'ble Supreme Court has already held that only those who approach the Court in time are entitled to relief, if any. Fence-sitters are not so entitled. (eg. Shiba Shankar Mohapatra (2010) 12 SCC 471 @ Para 29). Finally, applicant has stated that he can be appointed in reserve category as an SC candidate for the post of TGT (Hindi).

It is mentioned that during the scrutiny of the documents, the applicant, Mr. Sunil Kumar was found 'Not Eligible' due to being SC outsider (Not from Delhi). In fact, there were 45 other candidates also who were above the applicant in the merit list of SC category and their candidature was also not considered for being 'Not Eligible' being SC outsider, as per the norms prevalent at that time in view of court order in the matter of S. Pushpa and Others Vs Sivachanmugavelu And Others on 11 February, 2005. The above ground mentioned in the representation of Sh. Sunil Kumar was found not relevant and hence not applicable in the instant case.

It has been found that the SC certificate submitted by the applicant, has been issued by UP Government, therefore, the applicant is SC Outsider and not from Delhi. Therefore, the submission of the applicant Mr. Sunil Kumar that he is an SC of the state of Delhi by origin is not correct and hence his claim in this regard has been rejected.

It is further informed that the applicant, Sh. Sunil Kumar stood at 55th rank in the list of SC category against the 13 (thirteen) vacancies under the said category. Thus, he, in any case, was not in the zone of selection being lower in the merit list.

It is also stated that there were a total of thirteen vacancies under SC category which were filled up from candidates belonging to SC category of Delhi origin only as per the merit list. Initially 09 SC candidates were recommended for selection vide, Result Notice No. 203 dated 19-01-2011 and other four vacancies in SC category remained unfilled as no other Delhi Origin SC candidate who had obtained 70 marks and above out of 200 marks was available for selection. The recruitment process for the post of TGT (Hindi)(Male), Post Code-03/10 was subsequently closed with the approval of the Competent authority. A copy of vacancy position of TGT (Hindi)(Male), Post Code 03/10 was sent to the user Deptt. i.e. Dte. of Education, GNCTD, after the closure of recruitment process.

It is note worthy that there are 45 (forty five) candidate above the applicant in the merit list and even if, any vacancy in

the said post code would have existed or the result would have been processed according to the direction of the Hon'ble High Court in Deepak Kumar's case, then also the applicant could not have been selected as he is below in merit and does not find place in first 13 SC candidates , against the available 13 vacancies of SC category of the said post of TGT (Hindi) Male, Post Code 03/10. In fact, the merit position of the applicant in the SC category is 55" (Fifty five) against only 13(Thirteen) vacancies which were available under the sc category in the Post code 03/10, TGT (Hindi) Male.

In view of above, the applicant Sh. Sunil Kumar cannot be considered for selection to the Post of TGT (Male) (Hindi),post code 03/10.

This issues, with the approval of Competent Authority.

Dy. Secretary
DSSSB

To,

Sh. Sunil Kumar s/o Sh. Ram Kumar,
C/o Fauji Ratan Singh,
R/o H. No. 332, Street No. 7,
Near Rajiv Colony,
Narela, Delhi – 110040.

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