

**Anju Vs. Ashish Kumar**

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**Court :** Central Administrative Tribunal Principal Bench New Delhi

**Decided On :** Jan-17-2014

**Judge :** The Honourable Mr. G. George Paracken, Member (J) & the Honourable Mr. Shekhar Agarwal, Member (a)

**Appeal No. :** CP.No. 506 of 2013 in TA.No.76 of 2010

**Appellant :** Anju

**Respondent :** Ashish Kumar

**Judgement :**

Oral Order:

G. George Paracken, Member (J):

1. This Contempt Petition has been filed by the petitioner alleging non-compliance of the Order of this Tribunal dated 7.12.2012 in TA No.76/2012. The operative part of the said order reads as under:-

œ5. In view of the above position, we allow all the aforementioned MAs and dispose of the respective OAs/TAs by this common order, with a direction to the respondent-DSSSB to reexamine the cases of the applicants herein in the light of the aforesaid judgment. If their cases are covered by the same, they shall be recommended for appointment subject to fulfillment of other necessary conditions, within a period of one month from the date of receipt of a copy of this order. On

receipt of the recommendations from the DSSSB, the user department under the GNCT of Delhi shall also consider them for appointment under them, within the next one month thereafter. We also make it clear that if the applicants succeed, they shall be given all consequential benefits, as their batch mates have been given, except the back-wages. In case of any other impediment in their appointments, they shall be informed about the same by a reasoned and speaking order within the aforesaid period. There shall be no order as to costs.?

2. However, in purported compliance of the aforesaid order, the respondents have passed a separate order dated 21.1.2013, again denying the appointment to the petitioner. The relevant part of the said order reads as under:-

œIn compliance of the above order, the case of the applicant Anju, Roll No.01628578 has been re-examined and it is found that :-

1. The applicant Anju applied for the post of Teacher (Primary) MCD under post code no.016/08. The DSSSB had conducted the examination of this post on 15.02.2009 and the result for the post code was declared on 06/10/2009.

2. The applicant Anju was short listed in part-I examination in SC category on the basis of his claim in the application form. This is due to the fact that the Board does not conduct pre-examination scrutiny at the time of declaration of the result of part-I.

3. The candidate obtain 108/200 marks as per final merit list and his case was carefully examined before declaration of the result. The documents furnished by the candidate were scrutinized and it was observed that the applicant was a SC from outside Delhi. Accordingly he was not found eligible for appointment under SC category for the jobs under Govt. of Delhi.

4. As per the then existing policy of the Govt. of Delhi the benefit of SC category was not admissible to outside SC candidates instead they were considered under UR category only.

5. In the light of the judgment of Honble Supreme Court of India dt. 04.08.2009 as passed in Civil Appeal o.5092/2009 arising out of petition for special leave to

appeal(civil) no.24327/2005 Subhash Chandra and Anr. vs. DSSSB and Ors. He was treated as UR candidates. Does not found eligible for selection under the SC category. The reservation policy was confirmed by Delhi High Court also in case titled as DSSSB and Ors. vs. Mukesh Kumar and Others in W.P. (C) No.610/2011 and connected cases.

6. Later, the Honble High Court of Delhi has reconsidered its own decision in the matter titled Deepak Kumar and others vs. District and Session Judge Delhi and others. W.P. (C) No.5390/2010 and connected petition decided on 12.09.2012. However, the result for the post of Teacher (Primary) MCD post code 016/08 was declared before 12.09.2012. Therefore, the Law as applicable on that day has to be followed. Accordingly, the result in this case does not require any change.

In view of the above facts, it is informed that the applicant Anju can not be considered for selection of the post of Teacher (Primary) under post code 016/08 under SC category the result of which was declared before the decision of the Honble High Court of Delhi in the case referred to above.?

3. The petitioner has challenged the aforesaid order vide OA No.765/2013 and the same was allowed along with other connected cases again on 6.11.2013 and the operative part of the said Order reads as under:-

œ11.In view of the aforementioned, we dispose of these Original Applications with a direction to the respondent-Delhi Subordinate Services Selection Board to reexamine the claim of the applicants in view of the directions contained in Paragraph 66 of the judgment of Full Bench of Honble High Court of Delhi in Deepak Kumars case. It goes without saying that the action to be taken by the respondents would be subject to the outcome of the view to be taken by the Honble Supreme Court in Sandeep Kumar Singhs case (supra) and the clarification of the judgment in the case of Deepak Kumar by the Honble High Court of Delhi, if any. No costs.?

4. The learned counsel appearing for the alleged contemnor has submitted that after the aforesaid order of this Tribunal dated 6.11.2013, the respondents have taken steps to implement the same.

5. In view of the above position, we are of the considered view that this Contempt Petition does not survive. Accordingly, notice issued to the alleged contemnor is discharged. However, we direct the respondents to ensure that the aforesaid order of this Tribunal dated 7.12.2012 in TA No.76/2012 and reiterated by the other Bench vide Order dated 6.11.2013 in OA No.765/2013 and other connected cases be implemented positively within a period of one month from today. They shall also file necessary compliance affidavit in this case.

6. Order dasti to the counsel for the parties.

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