



2025:DHC:688-DB



\$~74

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 3647/2023, CM APPL. 14140/2023

GOVERNMENT OF NCT ORS & ORSPetitioners

Through: Mrs. Avnish Ahlawat, SC with
Mr. Nitesh Kumar Singh, Ms. Laavanya
Kaushik and Mr. Mohnish Sehrawat, Advs.

versus

BABU LAL MEENARespondent

Through: Mr. Jai Singh Mann, Adv.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

03.02.2025

%

C. HARI SHANKAR, J.

1. This writ petition is directed against order dated 18 January 2023 passed by the Central Administrative Tribunal¹ in MA 2460/2021 in an original application which was filed by the respondent against the petitioners before the Tribunal.

2. By the impugned order, the Tribunal has condoned the delay of 3250 days in filing the OA.

3. To our mind, this petition has to fail on a simple ground.

4. Ordinarily, no doubt, a delay of 3250 days is exorbitant, and could not easily have been condoned. However, in the present case,



the facts are truly peculiar. The prayer of the respondent, in his OA, read thus:

“In view of the facts and circumstances mentioned herein above, the applicant prays that Hon’ble Tribunal may be pleased to grant the following relief (s) in the interest of justice and equity:

(a) Respondents may be directed to declare result of ST category and process the case further for selection and appointment of the applicant on the post of Instructor (Math), Post Code 044/07 in DTTE, GNCT Delhi as published in Advt. No. 03/2007 w.e.f. the same date on which other category candidates, who appeared along with applicant for selection and have been appointed; and/or

(b) Respondents may be directed to give all consequential benefits including pay, seniority etc at par with other category candidates, who appeared along with applicant for selection and have been appointed; and/or

(c) To Pass any other and further orders as this Hon’ble Court may deem fit and proper in the facts and circumstances of the case, in favour of the Applicant and against the Respondent;

(d) To award exemplary cost of the litigation in favour of the applicant and against the respondents as there is no good and lawful reason with the respondents to deny the appointment of the applicant on the said post in ST category despite of sufficient vacancies.”

5. Against the selection for Instructor (Math) in post code 44/07 in the Directorate of Training and Technical Education GNCTD, advertised vide Advertisement No.03/2007, Mr. Singh informs us, in response to our query, that two vacancies were reserved for Scheduled Tribe² candidates.

6. Mr. Mann, learned Counsel for the respondent points out that,

¹ “the Tribunal” hereinafter

² “ST” hereinafter



in Result Notice No. 22 dated 6 April 2011, released by the petitioners in respect of the said examination, no results were announced for the vacancies under the ST category in view of a judgment dated 4 August 2009 of the Supreme Court of India. This is, in fact, specifically so mentioned in the Result Notice. Thus, the result of the respondent, and all other ST candidates who sought appointment as ST candidates, remained pending.

7. This, Mr. Singh informs us, was because, in view of the judgment of the Supreme Court in *Subhash Chandra v Delhi Subordinate Services Selection Board*³, there was a doubt about whether ST candidates from outside Delhi were entitled to the benefit of their ST status for the purposes of recruitments to posts in Delhi. He submits that the air was somewhat cleared by a judgment of the Full Bench of this Court in *Deepak Kumar v District and Sessions Judge*⁴, which was subsequently affirmed by the Supreme Court.

8. Be that as it may, the position remains that, till date, the results against the aforesaid two ST vacancies have not been declared.

9. In that view of the matter, we are in agreement with the Tribunal that the respondent could not have been non-suited on the ground of delay, as his cause of action still persists within the meaning of Section 21(1)⁵ read with Section 20 (2)⁶ of the Administrative

³ (2009) 15 SCC 458

⁴ 192 (2012) DLT 602 (FB)

⁵ 21. **Limitation:-**

(1) A Tribunal shall not admit an application,—

(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of Section 20 has been made in connection with the grievance unless



Tribunals Act, 1985⁷.

10. Though Section 20 (1) requires all departmental remedies to be exhausted before an applicant approaches the Tribunal, it is settled that, in emergent situations, the applicant can approach the Tribunal without having to submit a representation. Besides, where the applicant's grievance was that his result had not been declared, the cause of action, in the applicant's favour, would continue till the result was declared. The respondent, in this case, could not be expected to have approached the Tribunal on 6 April 2011, as the Result Notice released on that date contained a Note to the effect that the ST vacancies were not being filled in view of the judgement of the Supreme Court in *Subhash Chandra*. Those vacancies were never filled, though Mr Singh submits that they were later returned to the user department. The fact of return to the user department was, however, never made known to the candidates, for whom, therefore,

the application is made, within one year from the date on which such final order has been made;

(b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

⁶ 20. **Application not to be admitted unless other remedies exhausted. –**

(1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.

(2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances,—

(a) if a final order has been made by Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance; or

(b) where no final order has been made by the Government or other authority or officer or other person competent to pass such order with regard to the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired.

⁷ “the AT Act”, hereinafter



their results remained undeclared, and the vacancies, to all intents and purposes, unfilled.

11. Inasmuch as the ST vacancies results were never declared, the cause of action in favour of the respondent was still surviving on the day when he moved the OA. Perhaps, the situation might have been different if the petitioner had informed the ST candidates that the vacancies had been returned to the user department, in which case the limitation for the purposes of Section 21 (1) might have had to be reckoned from the date when such information was provided. That, however, apparently was never done, as is apparent from the fact that, even in his OA subsequently filed before the Tribunal, the prayer of the respondent was that the result be declared.

12. Ergo, as

- (i) the respondent's result had not been declared till he filed the OA, and
- (ii) the respondent had never been informed that the vacancies against which he applied were no longer available as they had been returned to the user department,

we agree that the respondent's OA could not have been dismissed on limitation, as the *terminus ad quem*, for reckoning of limitation for the purposes of Section 21(1) of the AT Act, had yet not been reached.

13. Strictly speaking, therefore, there *was* no delay, of which the respondent was required to seek condonation. As such, we find no reason to interfere with the Tribunal's decision to condone the delay.



2025:DHC:688-DB



14. We do not express any opinion on Mr. Singh's submission that, as the ST vacancies stand returned to the user department, the respondent can obtain no relief now. That ground would remain open to be debated and discussed before the Tribunal.

15. In the result, while keeping open all contentions of both sides, both on the aspect of maintainability and merits of the OA, to be addressed before the Tribunal, we hold that the respondent could not have been non-suited on limitation.

16. In order to expedite matters, let both sides appear before the Tribunal on 17 February 2025.

17. We clarify that this judgment is only restricted to the aspect of limitation and condonation of delay in filing the OA and does not express any opinion on any other aspect of the matter, including the issue of whether, at this distance of time, the respondent could be granted any relief.

18. No costs.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

FEBRUARY 3, 2025/aky

Click here to check corrigendum, if any