



\$~22

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 12.12.2025

+ W.P.(C) 12996/2022
MUSLIMA PARVEEN

.....Petitioner

Through: Mr.Anuj Aggarwal, Mr.Pradeep
Kumar, Mr.Nihil Pawar, Advs.

versus

DELHI SUBORDINATE SERVICES SELECTION BOARD &
ANR.

.....Respondents

Through: Mrs.Avnish Ahlawat, SC,
Mr.Nitesh Kr. Singh, Ms.Aliza
Alam, Mr.Mohnish Sehrawat,
Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE MADHU JAIN

NAVIN CHAWLA, J. (ORAL)

CM APPL. 39402/2022

1. This application has been filed to bring on record a communication dated 15.07.2022 issued by the Delhi Subordinate Services Selection Board (DSSSB).

2. For the reasons stated in the application, the same is allowed and the communication dated 15.07.2022 is taken on record.

W.P.(C) 12996/2022 & CM APPL. 39401

3. This petition has been filed, challenging the Order dated 13.07.2022 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal')



in O.A. No.1241/2022, titled ***Muslima Parveen v. Delhi Subordinate Services Selection Board (DSSSB) & Anr.***, dismissing the said O.A. filed by the petitioner herein.

4. The petitioner had filed the above O.A. praying for the following reliefs:

“(i) Set aside the impugned Notice dated 23.12.2021, whereby the DSSSB has prescribed more/higher cutoff marks for EWS category candidates than the cutoff marks for UR category candidates;

(ii) Set aside the impugned Notice dated 28.07.2017, issued by the Delhi Subordinate Services Selection Board (DSSSB), to the extent it provides - "Further, the candidate must have to qualify in Section A & B separately as per their category (UR/OBC/SC/ST/ExSM/PH) minimum qualifying marks. However, final merit will be prepared on the basis of aggregate marks of both the Section A & B. ";

(iii) Declare that the impugned action on the part of the Delhi Subordinate Services Selection Board (DSSSB) in not shortlisting the applicant for uploading the e-dossier for appointment on the post of TGT (Urdu) (Female) (Post Code: 53/21) in Directorate of Education, is illegal as well as unjustified;

(iv) direct the respondents to consider the candidature of the applicant by collectively adding the marks obtained by the applicant in Section A & Section B of the written examination i.e., without insisting on the condition that the applicant must qualify separately in Section A & Section B of the written examination;

(v) allow the present Original Application with costs in favor of the applicant.”



5. To give a brief background of the facts in which the present petition arises, the respondents, DSSSB, had issued a Notice/ Advertisement No.03/21 dated 27.05.2021 inviting applications for appointment *inter alia* to the post of TGT (Urdu) (Female) (Post Code: 53/21). A total of 571 vacancies were advertised.
6. The petitioner applied for the same under the Economically Weaker Section (EWS) category. The selection process comprised of a Part A and Part B examination.
7. In the result notice dated 23.12.2021, however, the petitioner was declared unsuccessful as she had secured only 39.39 marks in Section A. As per the respondents, in terms of the Notice dated 28.07.2017, the candidates were required to qualify both, Section A and Section B separately with the minimum qualifying marks being 40%.
8. Aggrieved of the same, the petitioner filed the above O.A., *inter alia*, challenging the Notice dated 28.07.2017 on the ground that it violated the Article 14 of the Constitution of India inasmuch as it imposed an unreasonable condition which has resulted in the EWS Category candidates not being selected for the advertised post.
9. The petitioner contended that as an effect of the said Notice, more than 85% vacancies of TGT (Urdu)(Female) post remained unfilled, with 99% vacancies for the said post remaining unfilled in the year 2017 advertisement; and 90% vacancies remaining unfilled in the year 2021 advertisement.
10. Another contention raised by the petitioner in the O.A. was that



a higher cutoff mark has been prescribed for the EWS category candidates as against the Unreserved (UR) category candidates, which was again unreasonable. The learned Tribunal, by its Impugned Order, had dismissed the O.A. filed by the petitioner herein finding no merits in the same.

11. The learned counsel for the petitioner submits that in fact, the Notice dated 28.07.2017 had no application to the impugned selection process inasmuch as the Advertisement dated 27.05.2021, in Clause 3(iv) thereof, referred only to the Notice dated 26.04.2013 and annexed the said notice as prescribing the minimum qualifying marks for different categories of candidates. He submits that in the Notice dated 26.04.2013, it was prescribed that the overall minimum qualifying marks for the two-tier written examination for the general category candidates is 40%, while for SC/ST/PH, it was 30%. There was no requirement of separately clearing both the Part A & B of the examination. He submits that therefore, the impugned examination was governed by the Notice dated 26.04.2013, and not by the Notice dated 28.07.2017.

12. He further reiterates that because of the application of the Notice dated 28.07.2017, the seats for the EWS candidates have gone unfilled, making the Notice dated 28.07.2017 liable to be declared arbitrary and in violation of Articles 14 and 15 of the Constitution of India.

13. He submits that realizing the above, the respondents by a communication dated 15.07.2022 addressed to the Delhi Minorities Commission, had decided that for the post of TGT (Urdu), TGT



(Punjabi) and TGT (Sanskrit), the requirement for securing minimum qualifying marks in Section A shall no longer be imposed and it would only be the aggregate marks of Section A & B of the examination that would be reckoned for preparing the final merit list. He submits that, however, this communication arbitrarily makes the said change in the policy applicable to the posts notified by the DSSSB in future and not to the past selection processes.

14. On the other hand, the learned counsel for the respondents submits that as far as the application of the Notice dated 28.07.2017 to the Impugned Selection Process is concerned, this was not even an issue raised by the petitioner before the learned Tribunal. She submits that before the learned Tribunal, the only plea raised by the petitioner was that the Notice dated 28.07.2017 is arbitrary and that a separate and lower cutoff should have been prescribed as far as the EWS candidates are concerned. She submits that therefore, the selection process should not be interfered with on this new plea taken by the petitioner in the present Writ Petition.

15. She further submits that the communication dated 15.07.2022 can have only prospective application and cannot apply to a selection process already undertaken by the DSSSB.

16. We have considered the submissions made by the learned counsels for the parties.

17. While we do find *prima facie* support in the submissions of the learned counsel for the petitioner that the Advertisement dated 27.05.2021, having referred only to the Notice dated 26.04.2013 and annexed the said notice along with the Advertisement, the selection



process thereunder should have been governed by the same and not by the Notice dated 28.07.2017, however, the said plea having not been raised before the learned Tribunal and taking note of the fact that the selection process has been completed by applying the Notice dated 28.07.2017, we would not like to go further into this issue. We may only note that re-opening the selection process by accepting the plea now raised by the petitioner, may undo the result which was issued on 23.12.2021, that is, almost four years back with no challenge raised thereto on this basis even by the petitioner till before filing the present petition.

18. The petitioner at the initial stage did not challenge the result on the above basis, which also shows that the petitioner was also aware that it is Notice dated 28.07.2017 which will govern the selection process. That being the policy in vogue at the time of issuance of the advertisement, mere reference to the earlier policy letter in the advertisement and the effect thereof need not, therefore, be gone into by this Court at this stage.

19. Coming to the submission of the learned counsel for the petitioner that the Notice dated 28.07.2017 is arbitrary inasmuch as it has resulted in more than 90% vacancies of EWS candidates remaining unfilled, the same also cannot come to the aid of the petitioner. The Advertisement and the selection process thereunder has to be governed by the policy then in existence. The petitioner having participated in the selection process, cannot thereafter challenge it on the ground that the rules applicable to such process were arbitrary.



2025:DHC:11272-DB



20. Even otherwise, it is for the concerned authority to see the effect of the policy and to take the remedial measures if it finds that it is leading to the object of the reservation being defeated.

21. In the present case, the respondents have revisited the policy and by a communication dated 15.07.2022, done away with the requirement of the reserve category candidates for the post of TGT (Urdu), TGT (Punjabi) and TGT (Sanskrit) to secure minimum marks in Section A of the examination. The said change in the policy can have only prospective effect and cannot be used to undo the examination process which stood concluded with the result declared prior thereto.

22. Accordingly, we find no merit in the present petition. The same is, accordingly, dismissed. The pending application is also disposed of.

NAVIN CHAWLA, J

MADHU JAIN, J

DECEMBER 12, 2025/Arya/pb