

**GOVERNMENT OF NCT OF DELHI
DEPARTMENT OF TRAINING AND TECHNICAL EDUCATION
MUNI MAYA RAM MARG, PITAM PURA, DELHI**

F.32 (44)/CC/Trg. Admn./2018/116

Dated: 08/2/2019

ORDER


An OA No. 4016/2018 was filed by Sh. Prahlad Singh Vs. GNCTD & Ors. in Hon'ble CAT, The relief sought in the OA is as under :

- (i) To direct the respondents to promote the applicant to the post of Group Instructor and vice principal on regular basis in PH category from due date with all consequential benefits including arrears of pay.
- (ii) To direct the respondents to promote the applicant to the post of group instructor and vice principal on regular basis against PH quota from 1995 or any other date with all consequential benefits including arrears of pay.
- (iii) To direct the respondents to give similar treatment to PH category candidate (applicant) as given to other reserved category candidates in the matter of promotion to the post of Group Instructor and Vice Principal.
- (iv) To allow the OA with Cost.
- (v) To pass such other and further orders which their lordships of this Hon'ble Tribunal deem fit and proper in the existing facts and circumstances of the case.

This OA was disposed of on 02.01.2018. The operative portion of the order of the Hon'ble CAT is as under:

In the circumstances, the OA is disposed of at the admission stage itself, without going into the merits of the case, by directing the respondents to consider the Annexure-A/9 (Colly) representation of the applicant dated 13.06.2018, and to pass appropriate speaking and reasoned orders thereon, in accordance with law, within 90 days from the date of receipt of a certified copy of this order.

In the representation dated 13.06.2018 the applicant requested that he had never been given promotion in Physically Handicapped category quota and further requested to consider his name for promotion to the post of Vice Principal in Physically Handicapped category quota.



As regards the submission that the applicant has never been given promotion in Physically Handicapped category, it is informed that the matter is too old but still earnest efforts were made and as per available records following is found:

The last promotion from Craft Instructor to Supervisor Instructor in Physically Handicapped category quota was done in 1995.

After that it was done in 1997, the relevant extract of DPC is as under:

Departmental Promotion Committee meeting was held on 23.09.1997 to consider promotion of Craft Instructors etc. to the post of Supervisor Instructors in ITI. The Committee also considered the issue of providing reservation to the Physically Handicapped officials. It was observed by the committee that out of total strength of 86 Supervisor instructors, there were 5 Physically Handicapped persons already in position.

Based on this, in a cadre no further seat was to be earmarked for PH officials. The instruction of the Government issued on 18 Feb. 1997 was also examined by the committee.

The committee observed that the required numbers of physically handicapped person already exist in cadre strength. The Committee, therefore, did not consider any candidate for promotion under the PH category.

The post of Supervisor Instructor was abolished on 28.08.2003 and new staffing pattern (i.e. G.I. - C.I. Scheme) was implemented in accordance with DGT guidelines and order of Hon'ble CAT in OA No. 1950/98.

After foregoing, in 2007 Promotion from Supervisor Instructor (Dying post) and Craft Instructor to Group Instructor was done. At that time also PH category was considered but since there was no promotional quota for PH category in Group 'B' posts as per DoPT, GOI order therefore, benefit of reservation was not given to this category.

The request of the applicant to consider his name for promotion to the post of Vice Principal(Group 'B' Post) in PH category is duly examined and it is informed that there is no reservation for person with disability in case of promotion to Group A and B posts as per DoPT OM dated 29.12.2005.

The Hon'ble Supreme Court in the matter of Siddaraju Vs State of Karnataka & Ors. in SLP No.24994/2016 on dated 03.02.2017 noted as under:



" that the contention of Solicitor General that the prohibition against reservation in promotion laid down by the majority in *Indra Sawhney & Ors Vs Union of India & Ors* - (1992) Supp.3 SCC 215 applies not only to Article 16(4) but 16(1) of the Constitution of India and inference to the contrary is not justified.

Persons suffering from disability certainly require preferential treatment and such preferential treatment may also cover reservation in appointment but not reservation in promotion. Section 33 of the 1995 Act is required to be read and construed in that background.

We find merit in the contention that the matter need to be considered by the larger Bench.

Accordingly, we direct the matter be placed before Hon'ble the Chief Justice for appropriate orders."

The DoPT Order No. 36035/3/2004 dated 29.12.2005 has not been withdrawn and still stands effective. Accordingly reservation for promotion to Group 'A' & 'B' is not available to Physically Handicapped candidates.

In the light of foregoing the request of Sh. Prahlad Singh, G.I. for promotion to the post of Vice Principal is duly considered and rejected.

This issues with the approval of Competent Authority.



(Amod Barthwal)
Administrative Officer (NG/E-II)

To
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(Amod Barthwal)
Administrative Officer (NG/E-II)