

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

F.32 (49)/CC/Trg. Admn./2019/843

Dated: 08 /09/2021

ORDER

Whereas in the first instance the applicant had filed an OA No. 4016/2018 wherein he had sought following relief:

- (i) To direct the respondent to promote the applicant to the post of Group Instructor and Vice Principal on regular basis in PH category from due date with all the 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 the consequential benefits including arrears of pay.
- (iii) To direct the respondent 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.

Whereas this OA was disposed of on 02.11.2018 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 order thereon, in accordance with law, within 90 days from the dated of receipt of a certified copy of this orders.

In compliance to said order the respondent had issued a speaking order dated 08-11/02.2019 the key points of this order is as under: -

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- (i) The matter was too old i.e. about 20 years old as the applicant called for consideration of his name for promotion. in PH category. from 1995.
- (ii) The last promotion from Craft Instructor to Supervisor Instructor was done in 1995 and then in 1997. In 1995 there were four vacancies in PH category and these were filled by the PH category candidates and in 1997 there were no vacancy in the PH category therefore no promotion was done in this category. Furthermore. the instruction of the Govt. issued on 18 Feb. 1997 was also examined by the committee.
- (iii) 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.
- (iv) 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.

In view of the foregoing the request of the applicant for promotion to the post of Vice Principal was duly considered and rejected.

Dissatisfied with the said order the applicant had filed an OA No. 1673/2019 in Hon`ble CAT. The relief sought in the OA was as under:

- (i) To quash and set aside the impugned Order No. F32(44)/CC /Trg.Admn./2018/116/9051 dated 08-11.02.2019 and 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 arrear of the pay.



To direct the respondent 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 pays.

- (ii) To direct the respondent 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.

Whereas in response the respondent had submitted reply wherein 'the stand taken in the speaking order' was reiterated and inter alia some of the key points are as under:

- (i) The representation of the applicant is time barred.
- (ii) The representation of the applicant was not rejected only because of content of Siddaraju's case there was other relevant factors also involved (like due to inordinate delay of about 20 years after first promotion and about 05 years of his own promotion. the representation is time barred).

AND WHEREAS the OA was disposed of on 19.03.2021. The operative portion of the order of the Hon'ble CAT is as under:

"13 For the foregoing reasons, the present OA is partly allowed. The impugned order dated 08-11.2.2019 is quashed and set aside. The respondents are directed to reconsider the applicant's claim for promotion to the post of Group Instructor and thereafter to the post of Vice Principal on regular basis from due date by granting him the benefit of reservation as admissible to the PH category candidate. It is further directed that if on such consideration, the applicant is found fit and suitable for such promotion(s), the applicant shall be entitled for the benefit of seniority and fixation of his pay from due date when his junior has been promoted. However, in the fact and circumstances, the applicant shall not entitle for arrears of difference of pay on such promotion(s)."

Whereas the applicant had submitted representation dated 13.06.2018 wherein he had claimed 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.”

Subsequently, the applicant had also sought, inter alia, following relief in OA No. 1673/2019 “To direct the respondent 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 pays.”

AND WHEREAS after hiatus of 2 months, due to curfew imposed by the Government on account of increased cases of Covid19, in compliance of Hon`ble CAT order dated 19.03.2021, the claim of the applicant was reconsidered and following aspects/ facts have come out/come to the fore:

1. The Applicant was appointed as Craft Instructor (C&T) in Directorate of Training & Technical Education, Govt. of NCT of Delhi on 27.08.1990 in General Category without applying any reservation and he had no physical disability certificate at the time of appointment. It is noteworthy that, afterward, the applicant had produced the physically handicapped certificate bearing the date 25.04.1992.
2. The OA No. 1673/2019 is time barred U/S 21 of the Administrative Act, 1985 because first time in 2018 after passing of a long period of 27 years being in service and getting promotion against General Seniority on 23.08.2013 he made representation to the Department for promotion from PH Category on 13.06.2018.
3. After the Judgment of the Hon`ble Supreme Court dated 15.01.2020 in the matter of Siddaraju Vs. State of Karnataka (Civil Appeal No. 1567/2017), the DoPT has filed an application for clarification (M.A. No. 2171/2020) in the Hon`ble Supreme Court on 28.09.2020 which is subjudice.


In the light of foregoing the request of Sh. Prahlad Singh G.I. ‘for considering his name for promotion to the post of Vice Principal in Physically Handicapped category quota’ which he made in representation submitted on 13.06.2018 and ‘promotion to the Group Instructor and Vice Principal from 1995’ which he claimed in Relief sought column of OA No. 1673/2019 are duly considered and kept in abeyance till the Order in this regard received from DoPT, Govt. of India.



This issues with the approval of the Competent Authority.

To
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F.32 (49)/CC/Trg.Admn./2018/ 843


(Rajesh Kumar Bhardwaj)
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Dated: 08/09/2021

Copy to:

1. Admn. Officer (Litigation), TTE (HQ) for information.
2. Govt. Counsel through Litigation Branch, TTE (HQ).
3. System Analyst, TTE (HQ), for uploading on the departmental web site.
4. Guard file.


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