

Reenu vs Delhi Subordinate Services Selection ... on 7 April, 2025

Author: Navin Chawla

Bench: Navin Chawla

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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 07.04.2025

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W.P.(C) 4036/2019

REENU

.....Petitioner

Through: Mr. Jitender Kumar, Advocate.

versus

DELHI SUBORDINATE SERVICES SELECTION BOARD

(DSSSB) & ANR

.....Respondents

Through: Mrs. Avnish Ahlawat, Standing

Counsel with Mr. Nitesh Kumar

Singh, Ms. Laavanya Kaushik,

Ms. Aliza Alam and Mr.

Mohnish Sehrawat, Advocates.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (Oral)

1. This petition has been filed challenging the Order dated 01.03.2019 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in Original Application ('OA') No. 714/2019 titled Renu v. Delhi Subordinate Services Selection Board & Anr., dismissing the said OA filed by the petitioner herein.

2. The petitioner had applied for the post of Special Education Teacher in the Directorate of Education, pursuant to the Advertisement No.04/2017 issued by the respondents on 20.12.2017.

3. It is the case of the petitioner that she belongs to the Scheduled Caste ('SC') Category, however, while applying for the post of Special Education Teacher, due to a technical error in the computer system, she applied under the Unreserved category. Upon realising the error, the petitioner tried to upload her application under the SC Category, but the same was not accepted.

4. The petitioner contended that if her candidature is considered under the SC Category, she would meet the required cut-off marks and would be entitled to appointment as a Special Education Teacher.

5. She, therefore, sent a Legal Notice dated 29.01.2019 to the respondents, but received no response thereto, leading her to file the above OA before the learned Tribunal on 25.02.2019.

6. The learned Tribunal, however, observed that the plea raised by the petitioner that there was a technical snag in the system because of which she could not apply under the SC Category cannot be accepted, and, therefore, dismissed the OA filed by the petitioner.

7. The learned counsel for the petitioner submits that as there was a technical error because of which the petitioner could not apply under the SC Category and had to perforce submit her application under the Unreserved Category, she should not be denied the opportunity of an appointment. He further submits that there are a large number of vacancies that remain unfilled for the post of Special Education Teacher and it is also in public interest that these vacancies should not go to waste.

8. On the other hand, the learned counsel for the respondents, placing reliance on the judgments of this Court in *Amardeep v. Govt. of NCT of Delhi & Ors.*, 2019 SCC OnLine Del 11725, upheld by the Supreme Court vide Order dated 06.03.2020 passed in SLP No. 5067/2020, and in *Soni v. Delhi Subordinate Services Selection Board*, 2025 SCC OnLine Del 1474, submits that the plea of the petitioner that due to some technical glitch she could not apply under the SC Category and was forced to apply under the Unreserved Category, cannot be accepted. She submits that the petitioner never protested or made a representation regarding such technical glitch and, in fact, participated in the selection process as an Unreserved Category candidate. It is only post the declaration of the result that the petitioner has raised this plea. She further submits that leftover vacancies had been advertised in the later selection process and merely because some seats still remain vacant, the petitioner cannot claim a right to appointment against these vacancies.

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

10. The plea of the petitioner that due to some technical glitch she could not apply under the SC Category and had to perforce apply under the General Category, cannot be accepted. The petitioner never raised a grievance regarding the same before the respondents and, in fact, also participated in the selection process. It is only post the declaration of the result, that the petitioner, for the first time, raised this grievance.

11. In similar circumstances, this Court in *Soni (supra)*, placing reliance on the earlier judgment in *Amardeep (supra)*, rejected a similar plea raised by the petitioner therein, by observing as under:

"16. We are in agreement with the Tribunal that, having herself applied as an unreserved category candidate in response to the advertisement No. 01/18, the petitioner could not seek to contend that the respondents ought to have treated her as an OBC category candidate merely because she had declared her social status as OBC in the application filled by her by way of response to the earlier advertisement No. 02/17. The examination which was conducted pursuant to that advertisement admittedly stood cancelled owing to mass copying. The advertisement No. 01/18 was,

therefore, an entirely fresh advertisement and a fresh recruitment process for the same vacancies.

17. It is important to note that there was no embargo on an applicant who had applied pursuant to advertisement No. 02/17 re- applying in pursuant to advertisement No. 01/18. The note in the advertisement merely stated that an applicant, who had applied pursuant to the first advertisement need not apply pursuant to the second. If an applicant chose to apply, it would be completely unfair to hold that the respondents should have ignored that application and only taken into consideration the earlier application filled by the applicant pursuant to advertisement No. 02/17. Where a candidate chose, voluntarily, to re-apply pursuant to advertisement No. 01/18, the candidate had to sink or swim with the declarations contained in the said advertisement. The petitioner declared herself to be an unreserved category candidate in the application filled by her in response to advertisement No. 01/18. There cannot, therefore, be said to be any illegality in the respondents treating her as an unreserved category candidate or in the Tribunal holding that no case for treating the respondents' action as illegal was made out.

18. The judgments on which Mr. Aggarwal places reliance do not aid his case in any manner. In fact, in Mukesh Kumar Yadav, the attention of the Division Bench of this Court was drawn to the fact that, in earlier judgments passed in Neeti Nayyar v. GNCTD, Pooja Sehrawat v. GNCTD and Union Public Service Commission v. GNCTD, Coordinate Benches of this Court had already held that the candidate should not back-track or resile from the declaration made in the application filled pursuant to the advertisement issued by the respondents.

19. This Court distinguished those decisions, in para 9 of its judgment, on the ground that the petitioner Mukesh Kumar Yadav, candidate before it, had, at the earliest opportunity, written to the GNCTD, pointing out that he had committed a mistake and seeking a correction in the records.

20. As against that, in the present case, the application pursuant to advertisement 01/18 was submitted by the petitioner in June 2018. It was only in February 2019 that the petitioner wrote to the respondents stating that she should be treated as an OBC candidate.

21. In that view of the matter, the judgment in Mukesh Kumar Yadav cannot come to the aid of the petitioner whose case would, rather, had to be tested on the angle of the earlier decisions of this Court in Neeti Nayyar, Pooja Sehrawat and Union Public Service Commission.

22. In Amardeep, which has been cited by Mr. Singh, another Coordinate Division Bench of this Court has clearly held that the candidate was bound by the declaration made in the application submitted by way of response to the advertisement.

23. We also tend to subscribe to the same point of view. It would create a situation of complete administrative chaos if a candidate is permitted to apply once declaring her candidature as OBC, a second time declaring her candidature as unreserved and thereafter to say that the respondents should have considered the former application and not the latter.

24. If such an argument were to be permitted, the selection processes would never come to an end, as the selecting authority would have to consider whether to accept or ignore the applications filled by each candidate.

25. Once the petitioner had consciously applied in response to advertisement No. 01/18, stating herself to be an unreserved category candidate, we are afraid she cannot resile at the later stage from that application."

12. We, therefore, find no merit in the present petition. The same is accordingly, dismissed.

NAVIN CHAWLA, J RENU BHATNAGAR, J APRIL 7, 2025 Sc/m/SJ Click here to check corrigendum, if any