

In the Court of Commissioner for Persons with Disabilities

National Capital Territory of Delhi

25-D, Mata Sundari Road, Near Guru Nanak Eye Centre, New Delhi-110002

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[Vested with powers of Civil Court under the Persons with Disability (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995]

Case No. 4/708/2014-Wel/CD/ 1161-62

Dated. 25-09-2014

In the matter of:

Ms. Anju Chaudhary
D/O Sh. Mahipal Singh,
V-1/5, Police Colony,
Andrews Ganj, New Delhi -110049

..... Petitioner

Versus

Ms. Padmini Singla,
Director
Directorate of Education,
GNCT of Delhi,
Old Secretariat, Delhi

.....Respondent

ORDER

1. Ms. Anju Chaudhary D/o Sh. Mahipal Singh a person with 60% locomotor disability represented that the result for the engagement of Guest Teachers in schools under Directorate of Education GNCT of Delhi for the academic year 2014-15 was declared on 22nd August 2014 and no separate merit list for persons with disabilities was issued by the Directorate of Education in the said result even as there was a reservation of 3% for persons with disabilities in the recruitment.
2. A hearing was fixed. The reply was filed by Additional Director (Planning/Administration) on 16.9.14 stating that **Quote** "A total of 557 number of PH candidates have been allocated Post/School across all Districts and category of posts taken together and verification of their documents and their engagement is in progress. Ms. Anju choudhary has neither clearly stated the post applied nor quoted her application ID in the complaint dated 27.8.14 without which it becomes difficult to verify her candidature. However, on the basis of her name application ID has been searched and found that an applicant in the name of Ms.Anju Choudhary (Female PH) D/o Mahipal Singh R/o V-1/5 Police Colony, Andrews Ganj, N.Delhi-110049 had applied for the post of Assistant Teacher (Primary) vide application ID 2014025963 in the South District. Based on the said ID it is stated that

out of total of 142 vacancies of Assistant Teacher (Primary) 4 posts are reserved for PH category. According 4 candidates belonging to PH category have been allocated post/school in the order of merit. It is clear from the allocation sheet that male candidate with the merit cut off mark 20.658 was allocated school in respect boys schools while in case of girls candidate with the merit cut off mark of 21.121 was allocated school/post. Ms.Anju Choudhary merit mark is 19.56 which is below the said cut off in the PH category and therefore no post/school was allotted." **Unquote.**

3. In reply the petitioner stated that two merit lists have been issued by the Directorate of Education. The candidates mentioned in 2nd list have been selected in place of the candidates who were selected in 1st list but did not join the allotted schools. The 4 candidates selected under PH category to be appointed as Guest Teachers have been given chance in the 2nd list even as a separate list for PH category was to be issued at the time of issuance of 1st list as done in case of SC/ST/OBC candidates and out of total 142 posts of Assistant Teacher (Primary) in South District 05 (five) posts should be reserved for persons with disabilities instead of 04 (four) posts.
4. I have heard the petitioner as well as the respondent. It is a case of engagement of Guest Teachers in Schools of Directorate of Education for the academic year 2014-15 in which 3% posts were reserved for persons with disabilities but separate merit list for persons with disabilities was not issued by the Directorate as is done in case of SC/ST/OBC. The vacancies were distributed districtwise by Directorate of Education and the applications were also invited from eligible candidates for appointment of Guest Teachers in the district applied for by the applicants. Therefore the 3% reserved vacancies need to be calculated districtwise and result thereof should also be declared districtwise. The notification No. 36035/3/2004-Estt.(Res.) dated 29.05.2005 mandates **Quote** "Reservation for backward classes of citizens (SCs, STs and OBCs) is called vertical reservation and the reservation for categories such as persons with disabilities and ex-servicemen is called horizontal reservation. Horizontal reservation cuts across vertical reservation (in what is called interlocking reservation) and persons selected against the quota for persons with disabilities have to be placed in the appropriate category viz. SC/ST/OBC/General candidates depending upon the category to which they belong in the roster meant for reservation of SCs/STs/OBCs. To illustrate, if in a given year there are two vacancies reserved for the persons with disabilities and out of two persons with disabilities appointed, one belongs to a Scheduled Caste and the other to General category then the disabled SC candidate shall be adjusted against the SC point in the reservation roster and the General candidate against unreserved point in the relevant reservation roster. In case none of the vacancies falls on

the point reserved for the SCs, the disabled candidate belonging to SC shall be adjusted in future against the next available vacancy reserved for SCs.” **Unquote.** Hence there is a need to issue a separate merit list for persons with disabilities in each result where 3% reservation is provided as is done in the case of SC/ST/OBC. There are 142 posts of Assistant Teacher (Primary) in the South District and therefore 05(five) posts are required to be reserved for persons with disabilities instead of 04(four) posts as the points 1, 34 and 67 of the roster are earmarked reserved for persons with disabilities. Therefore for the vacancies up to 100th point three posts need to be reserved and thereafter 134th post is reserved for persons with disabilities and since there are a total of 142 vacancies one post shall be reserved after 134th post i.e between 134th to 142nd post for persons with disabilities. The Office Memorandum No.36035/3/2004-Estt (Res) dated 29.12.2005 of Ministry of Personnel, Public Grievances & Pensions Department of Personnel and Training Government of India may be referred to in this regard which states **Quote** “b) Each register shall have cycles of 100 points and each cycle of 100 points shall be divided into three blocks, comprising the following points : 1st Block – point No.1 to point No.33 , 2nd Block – point No.34 to point No.66, 3rd Block – point No.67 to point No.100. c) There is a possibility that none of the vacancies from 1 to 33 is suitable for any category of the disabled. In that case two vacancies from 34 to 66 shall be filled as reserved for persons with disabilities. If the vacancies from 34 to 66 are also not suitable for any category three vacancies shall be filled as reserved from the third block containing points from 67 to 100. This means that if no vacancy can be reserved in particular block it shall be carried into the next block. f) After all the 100 points of the roster are covered a fresh cycle of 100 points shall start” **Unquote.** The vacancies for persons with disabilities therefore are required to be calculated by following the instructions issued by Ministry of Personnel, Public Grievances & Pensions Department of Personnel and Training Government of India dated 29.12.2005. A separate merit list for persons with disabilities shall also be issued for each result as is done in the case of SC/ST/OBC. An Action Taken Report shall be filed within 15 days.

5. Ordered accordingly.



Given under my hand and seal of the Court on this 25th day of September 2014.

[Handwritten signature]
(K.S. Mehra)

Commissioner

Court of Commissioner (Disabilities)
National Capital Territory of Delhi
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