**Before The Hon'ble State Administrative Tribunal At Shimla**

OA No.:\_\_\_\_\_\_ of 2004

Applicant

Versus

Respondents

Application Under Section 19 of the Administrative Tribunals Act, 1985

Shimla Applicant

\_\_\_\_\_\_ Through, Advocate

Respectfully Sheweth :

1. Particulars of the Applicant

As given in the Memo of Parties.

2. Particulars of the Respondents

As given in the Memo of Parties.

3. Impugned Order:

That the applicant is aggrieved by the impugned order of the respondents whereby they have selected and appointed the respondent No. \_\_ as Part Time Water Carrier in GPS \_\_ despite not being eligible.

4. Jurisdiction

That the applicant declares that the subject matter is within the jurisdiction of this Hon'ble Tribunal.

5. Limitation:

That the applicant further declares that the application is within the limitation.

6. Facts of the Case:

6.1 That the applicant has applied for the post of Part Time Water Carrier in Govt Pry School \_\_, under Block Primary Education Officer \_\_ and under Gram Panchayat \_\_. The applicant also belongs to the same Gram Panchayat and the distance of the applicant's residence from the School is only \_\_.

6.2 The applicant possesses the following qualifications and certificates which were duly produced before the Selection Committee on the date of interview as called for by them:-

- Matriculation \_\_% marks A-\_\_

- Plus Two \_\_% marks A-\_\_

- SC A-\_\_

- Handicap A-\_\_

- Land Donation A-\_\_

- IRDP A-\_\_

- Un-employed Family A-\_\_

6.3 That the interview for the said posts were held at \_\_ on \_\_ in which the applicant alongwith the respondent No. \_\_ and other candidates participated. \_\_

6.4 That the marks are to be allocated in the manner prescribed in the Part Time Water Carrier Scheme, as per which the applicant viz-a-viz Respondent No. \_\_ scores the marks as follows:-

**S.No. Qualification Applicant Respondent**

**- Distance \_\_ \_\_**

**(\_\_ mtrs from School) (\_\_ Mtrs)**

**- Land Donation \_\_ \_\_**

**- SC \_\_ \_\_**

**- Un-employed Family \_\_ \_\_**

**- Marks in Interview \_\_ \_\_**

**Total Marks \_\_ \_\_**

6.5 That from above it is amply evident that the applicant scored more marks than the respondent No. \_\_. However, there are 7 marks for viva which are to be given by the Chairman and the members in the following manner:-

Marks Given

to applicant

(a) SDM (Chairman) 2 \_\_

(b) BPEO 2 \_\_

(c) Pradhan 2 \_\_

(d) CHT 1 \_\_

6.6 That \_\_

GROUNDS

6.7 That feeling aggrieved by such an arbitrary, malafide, discriminatory and illegal actions of the respondents, the applicant seeks the indulgence of this Hon'ble Tribunal on the following grounds amongst others, which may be taken at the time of arguments, each one of which is without prejudice to and independent of others :-

(a) That the impugned orders of selection and appointment issued by the respondent department are arbitrary, malafide, illegal, ultra vires, against the Articles 14 and 16 of the Constitution of India, dehors the rules and regulations and against the natural justice.

(b) That the respondent State has formulated Part Time Water Carrier Scheme for selection/appointment of Part Time Water Carrier.

(c) That the respondent department has not conducted selection in consonance with the above guidelines.

(d) That the respondents are estopped due to their own act, deed and conduct. The principle of the Promissory Estopple applies against the respondents.

(e) That the impugned order is against the well settled principles of the law as laid down by the Hon'ble Supreme Court and this Hon'ble Tribunal in catena of cases.

7. Reliefs Sought:

That the applicant, therefore, prays that your Lordship be pleased to issue an appropriate writ, orders or directions to grant the following reliefs in favour of the applicant in the interest of justice:-

(a) Quash the impugned selection and appointment order A-\_\_ whereby the respondent department has selected the respondent No. \_\_, being issued arbitrarily, malafide and illegally by the respondents;

(b) Direct the respondents to select and appoint the applicant against the post of Part Time Water Carrier on the basis of merits \_\_, with all the consequential benefits;

(c) Direct the respondents to produce all the relevant documents alongwith their reply for perusal by this Hon'ble Tribunal;

(d) Allow the cost of this O.A.;

(e) Pass such other order or directions as deemed fit and proper in favour of the applicant.

AND FOR THIS ACT OF KINDNESS, THE HUMBLE APPLICANT AS IN DUTY BOUND, SHALL EVER PRAY.

8. Interim Orders, If Prayed:

That it is most respectfully prayed that during the pendency of this OA the operation of the impugned order/action of selection and appointment \_\_ of the respondents whereby they are going to appoint the respondent No. \_\_, may kindly be stayed during the pendency of this OA in the interest of justice.

9. Details of Remedies Exhausted:

That the applicant submits that since the matter being of an urgent nature, there is no other alternative speedy and efficacious remedy available to him except to approach this Hon'ble Tribunal.

10. Matter not Pending with any Other Courts Etc:

That the applicant further declares that the matter regarding which this application has been made, is not pending before any court of law or any other Authority or any other bench of this Hon'ble tribunal.

11. Particulars of Court Fees:

Court fees worth Rs 50/- is attached herewith.

12. Details of Index:

An index containing the details of the documents to be relied upon is enclosed herewith.

Shimla Applicant

\_\_\_\_\_\_ Through, Advocate

**BEFORE THE HON'BLE STATE ADMINISTRATIVE TRIBUNAL AT SHIMLA**

OA No.:\_\_\_\_\_\_ of 2004

Applicant

Versus

Respondents

Affidavit in support of OA under Section 19 of the Administrative Tribunals Act 1985.

I,\_\_\_\_\_\_, do hereby solemnly, affirm and declare as under:-

1. That the accompanying OA has been prepared under my instructions.

2. That the contents of paras 1 to 12 of the accompanying application are correct and true to the best of my knowledge.

3. That I further solemnly affirm and declare that this affidavit of mine is correct and true to the best of my knowledge and no part of it is false and nothing material has been concealed therein.

Affirmed at Shimla this the \_\_\_\_\_\_.

**BEFORE THE HON'BLE STATE ADMINISTRATIVE TRIBUNAL AT SHIMLA**

OA No.:\_\_\_\_\_\_ of 2004

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Shimla Applicant

\_\_\_\_\_\_ Through, Advocate