

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.1945/2002

This the 21st day of April, 2003

HON'BLE SMT. LAKSHMI SWAMINATHAN, VICE-CHAIRMAN (J)

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

Smt. Sushma Rani W/O Laxmi Narain,
H. No.3, Gautam Colony, Narela,
Delhi-110040.

... Applicant

(By Shri Arun Bhardwaj, Advocate)

-versus-

1. The GNCT of Delhi through
Chief Secretary,
5, Sham Nath Marg,
Delhi.
 2. Director of Education,
Directorate of Education,
Behind Old Secretariat,
Delhi.
 3. Administrative Officer (E-III),
Directorate of Education,
GNCT, Old Secretariat, Delhi.
 4. Delhi Subordinate Services Selection Board
through its Secretary,
Institutional Area,
Delhi-110091.
- ... Respondents

(By Shri Mohit Madan for Mrs. Avnish Ahlawat, Advocate
for Respondents 1-3; Shri Vijay Pandita, Advocate for
Respondent No.4)

O R D E R (ORAL)

Hon'ble Shri V.K.Majotra, Member (A) :

Applicant has sought quashing and setting aside of orders dated 17.5.2000 and 6.12.2001 (Annexure A-1 colly.) whereby respondents have cancelled applicant's nomination for appointment to the post of Language Teacher (Hindi) [LT(Hindi)] on the ground that she has not studied Hindi as an elective subject in all the three years of degree course. Applicant has further sought direction to respondents to appoint her to the post of



Trained Graduate Teacher (Hindi) [TGT(Hindi)] with all consequential benefits..

2. Vide Annexure A-3 respondents issued an advertisement in March, 1999 for recruitment to the post of Trained Graduate Teacher/Language Teacher. This advertisement laid down qualifications that a candidate should possess either a BA (Honours) degree or should have 45% marks in the BA (Pass) course with Hindi as an elective subject or with any other school subject. According to applicant, she had passed her matriculation examination in March, 1980 with Hindi as a subject; she passed her 11th/pre-university examination in April, 1981 with Hindi as a subject; and passed BA (I), (II) and (III) between April, 1982 and April, 1984 with Hindi as a subject in each year. Then she completed her Bachelor of Education (B.Ed) examination in June, 1991 with one of the subjects being "Contents-cum-methodology of teaching of Hindi with theory and practical subjects". Thereafter applicant passed her MA (Previous) and Final examinations in 1985-86 in Hindi in second division. She had submitted documents relating to these qualifications along with the application in response to the aforesaid advertisement. She was allowed to take the test in which she was declared successful and placed at Sl. No.1 of the merit list. She was nominated provisionally for appointment to the post of LT(Hindi) on recommendations of the Delhi Subordinate Services Selection Board (DSSSB) dated 21.10.1999. However, later on vide impugned orders, her appointment was cancelled on the ground that she had not studied Hindi as an elective subject in all

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the three years of degree course. In paragraph 5.4 of the OA applicant has stated that respondents have appointed various other persons as TGT in their departments though they did not have the concerned language as an elective subject in their graduation. Some of such candidates had not even undergone a three-year course of graduation. Applicant has given the details of such persons as follows :

"Jitender Singh TGT (English)
Manoj Kumar TGT (English) 1997 - recruitment
Devender Kumar TGT (Hindi) 1999 - recruitment
Northwest zone (A)
Anil Kumar TGT (Hindi) - 1999 recruitment
SW (B) zone .
Smt. Sarita TGT (Hindi) - Northwest zone (a)
presently posted in Government Girls
Senior Secondary a Bawana - 1999
recruitment. This candidate has
passed Hindi Subject as a compulsory
subject of hundred marks instead of
elective Hindi in a graduation.
Smt. Urmila TGT (English) - Northwest (A) zone
- 1999 - recruitment - posted as
Government Girls Secondary School
Bawana, this candidate has also
passed English subject as a
compulsory subject of hundred marks
in all the three years of BA degree
instead of having English as an
elective subject in graduation."

It has been stated by applicant that she had passed her graduation from Maharshi Dayanand University (MD University), Rohtak, which at that time had examination of Hindi for 50 marks instead of 100 marks. According to her each university has a different pattern of marking and also has different maximum marks for each subject in graduation. Osmania University has 200 marks as maximum in the language subject in the examination conducted in merely one year. As such, the percentage of marks scored by a candidate and not the maximum marks should be

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considered material to ascertain the caliber of a candidate.

3. Respondents have stoutly denied the averments of applicant.

4. We have heard the arguments advanced on behalf of applicant as also the learned proxy counsel for respondents 1-3. The learned counsel of respondent No.4 has adopted the arguments put forward by the proxy counsel for respondents 1-3.

5. At the outset, the learned proxy counsel of respondents contended that the present OA is barred by limitation as whereas the impugned order was passed on 17.5.2000, the OA has been filed on 23.7.2002. He further stated that letter dated 6.12.2001 issued by respondents communicates only the refusal of respondents to reconsider applicant's case which had already been rejected vide Annexure A-1 dated 17.5.2000. In our view, good case on merit cannot be dismissed on delay alone. Delay can certainly be condoned on the basis of "sufficient cause". This expression has to be given a liberal interpretation to ensure that substantial justice is done. For these observations, we place reliance on **Abul Sultan A. Mauji v State of Gujarat**, 2000 (8) SLR (Guj) 434; and **Ram Nath Shaw & Ors v Goverdhan Shaw & Ors.**, 2002 (3) SCC 195. The facts of the present case lead us to hold that the call of substantial justice should override the meek objection of delay in filing the application. This objection, as such, is rejected.

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6. The learned counsel of applicant has drawn our attention to Annexure A-7 dated 13.3.2000 whereby DSSSB has written to the Directorate of Education, Delhi as follows :

"With reference to your office letter No. DEB(34)/Estt.111/99/639 dated 4.2.2000 on the subject cited above. I am directed to say that Ms. Sushma Rani Roll No.121565 selected for the post of LT had passed Hindi subject in all the 3 years. Hence she is eligible for the provisional appointment for the post of LT/Hindi. The complete Dossier (in original) of Ms. Sushma Rani is being returned herewith for further necessary action at your end."

He further referred to MD University, Rohtak certificate dated 29.5.2000 (Annexure A-8) to the effect that applicant "has passed B.A. Degree with Hindi (subject) as a compulsory and main subject at B.A. level". Further by Annexure A-9 dated 30.5.2000, Association of Indian Universities has endorsed the opinion of MD University, Rohtak's certificate dated 29.5.2000.

7. The learned counsel of respondents has contended that the cases cited by applicant have no similarity with her case. He referred to the recruitment rules stating that educational and other qualifications required for direct recruitment are different than those of applicant. The recruitment rules prescribe the following qualifications for direct recruitment of TGT/LT :

"(1) BA (Hons) in one of the Modern Indian Languages (MIL) concerned or BA with MIL concerned as one of the elective subjects from a recognised university having 45% marks in aggregate with one additional



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language or one school subject at Degree level.

OR :

Equivalent Oriental Degree in MIL concerned from a recognised university having 45% marks in aggregate.

OR -

(For appointment as Hindi Teachers only) Sahitya Rattan of Hindi Sahitya Sammelan Prayag having secured at least 45% marks in aggregate with English in Matriculation provided further that the requirement as to the minimum of 45% marks in the aggregate shall be relaxable in the case of (a) candidates who possess a post graduate qualification in MIL concerned from a recognised university (b) candidates belonging to SC/ST (c) physically handicapped candidates. ;

(I) Degree/Diploma in teaching

OR :

Senior Anglo Vernacular Certificate (SAV)

(II) Knowledge of Hindi is essential." ;

He stated that applicant had completed her graduation from MD University, Rohtak and passed papers in Hindi subject having a maximum of 50 marks each in all the three years. She had taken Hindi as compulsory subject and not as elective. As such, she did not fulfil the requirement of the recruitment rules. According to the learned counsel, applicant is neither BA (Hons.) in Hindi nor has she studied the subject Hindi as elective at her graduation level. He relied on the scheme of examination for BA relating to MD University stating that applicant could have opted Hindi as elective subject comprising 100 marks in each year provided that she had not opted Hindi as compulsory subject. He further stated that Hindi as a compulsory subject is only language-based whereas Hindi

elective is literature-based. To these contentions, the learned counsel of applicant pointed out that whereas the scheme of examination referred to by applicant relates to BA (I) examination, 1985 and BA (II) and (III) examinations, 1986, applicant had completed all three parts of BA by April, 1984 and as such, the scheme relied upon by respondents is not applicable to the present case. Respondents could not have insisted upon the condition of Hindi elective with 100 marks in each year when the scheme relied upon by them was not in existence at all and when MD University, Rohtak and Association of Indian Universities have themselves certified applicant's BA degree with Hindi as a compulsory and main subject at BA level. The learned counsel of applicant also stated that applicant had acquired a higher qualification of MA in Hindi as well which should further strengthen her case regarding fulfilment of qualifications for the advertised post. In this connection, he relied on order dated 26.11.1999 in OA No.886/1999 (CAT, Principal Bench) : **Manoj Kumar v Government of National Capital Territory of Delhi & Ors.**, in which the applicant had done B.A. in one sitting from Osmania University. The maximum marks in part-I for English in his marks sheet were given as 200 each whereas in part-II, the subjects studied were Political Science, Public Administration and Sociology, all containing maximum marks of 300 each. The applicant therein did not have the advertised or prescribed qualifications as per recruitment rules but it was held that he possessed requisite qualifications.



8. The learned counsel of respondents sought support from judgment dated 15.12.1999 made by the Hon'ble Delhi High Court in CWP No.6397/1999 : **Seema Tanwar v National Capital Territory of Delhi & Ors.**, to contend that papers in Hindi language passed at a higher level are irrelevant if the qualification prescribed at the lower level is not met. Applicant in that case had not studied Hindi at the secondary level which was required for the post of Primary Teacher. He has further taken support from **Ataul Haque v Government of National Capital Territory of Delhi & Ors.**, -90-(2001) Delhi Law Times 188, wherein it was held that B.Ed. candidates are not suitable for teaching primary classes for whom ETE/JBT courses are specifically designed. In our view, the facts and circumstances of the present case are entirely different than those of **Seema Tanwar** (supra) and **Ataul Haque** (supra). In the former case, the petitioner had not studied Hindi subject at the secondary/senior secondary level at all which was necessary. In the latter, the petitioner was required to have ETE/JBT courses which are specifically designed for teaching primary classes. Acquisition of higher qualifications in both cases clearly had no nexus with the objective sought to be achieved. But the present case is entirely different. In this case, applicant had studied Hindi subject in all the three years of graduation. Apart from that, she had passed her~~y~~ matriculation examination, 11th/pre-university and MA examinations with Hindi. MD University, Rohtak as well as the Association of Indian Universities vide Annexures A-8 and A-9 have certified that applicant has passed BA degree with Hindi subject as



a compulsory and main subject at BA level. Respondents' contention that applicant should have opted for Hindi subject as elective comprising 100 marks in each year is not relevant in the present matter because the scheme of examination relied upon by respondents in this regard relates to BA examinations from 1985 onwards while applicant had completed her graduation before that. Applicant had submitted all her papers and documents with respondents. She was allowed to take the test in which she was declared successful and placed at Sl. No.1 of the merit list. Thus, we find that applicant possesses the requisite qualifications for the post of LT (Hindi). Respondents have not also explained satisfactorily how various persons as mentioned by applicant in paragraph 4.20 of her OA were appointed as TGT though they did not have the concerned language as an elective subject in their graduation and some of them had not even undergone a three-year course of graduation.

9. Having regard to the above discussion, we have no doubt that applicant has been meted out an unfair and discriminatory treatment at the hands of respondents. The decision of respondents in cancelling applicant's provisional appointment to the post of LT (Hindi) which was made on the recommendations of DSSSB is also against the principles of natural justice. The ratio in the case of **Manoj Kumar** (supra) is also applicable to the facts of the present case. Consequently, we allow the OA with the following observations/directions :-

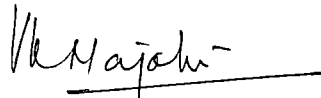
- (1) Orders dated 17.5.2000 and 6.12.2001 (Annexure A-1 colly.) cancelling applicant's nomination for the

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post of Language Teacher (Hindi) are quashed and set aside.

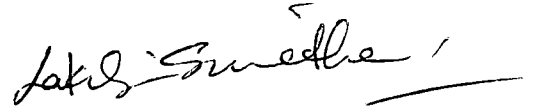
- (2) Respondents shall consider appointing applicant to the post of Language Teacher (Hindi) with all consequential benefits within a period of eight weeks from the date of receipt of a copy of this order.

No order as to costs.



(V. K. Majotra)
Member (A)

/as/



(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)