

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 417/2002

New Delhi this the 4th day of April, 2003.

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN

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

Shri Kendra Pal Singh
S/o Shri Virender Singh,
R/o 99-D, Krishna Nagar
Mathura-281004.

...Applicant.

(By Shri M.K. Bhardwaj, Advocate)

vs.

1. Union of India
Ministry of Human Resources Development
Govt. of India, New Delhi
(Through its Secretary)
2. Kendriya Vidyalaya Sangathan
18, Institutional Area
Shaheed Jeet Singh Marg
New Delhi-110016.
(Through its Commissioner) Respondents

(By Advocate: Shri S. Rajappa)

O R D E R (ORAL)

Justice V.S. Aggarwal:-

Applicant (Kendra Pal Singh) had passed B.Sc. with Physics, Chemistry and Mathematics in the year 1998. He submitted an application as a general category candidate for the post of Trained Graduate Teacher (Maths Group). On 28th and 29th August, 1999, written test was held and the applicant qualified the same. He was called for an interview for the post of Trained Graduate

V.S. Aggarwal

47 17

Teacher and he appeared for the same on 20.1.2000.

The applicant was declared selected as a general category candidate and was 14th on the merit list. As per the result declared, the candidates so selected were to be issued, the appointment letters but the applicant was not issued such a letter. The candidature of the applicant is said to have been rejected on the ground that he did not possess the prescribed minimum qualification as advertised and as required for the post on the last date of submission of the application i.e. 10.4.1999.

2. According to the applicant, the reasons so given did not stand scrutiny and by virtue of the present application, he prays that a direction should be issued to give appointment to him to the selected post of Trained Graduate Teacher.

3. The application has been contested by both the respondents. In the counter reply filed by respondent No.2, it has been asserted that the reasons given for rejecting the candidature of the applicant are valid. The applicant did not possess the requisite qualification as on 10.4.1999. Merely because he was called for the interview does not confer any vested right on the applicant when he was not qualified as per the advertisement and the rules.

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18

4. In the advertisement that was issued for the post of Trained Graduate Teacher, the educational qualifications were:-

"i) Second Class Bachelor's degree (45% marks and above in aggregate including electives and languages in the degree examination considered as equivalent with University Degree/Diploma in Education/Teaching OR four years integrated Degree of Regional Colleges of Education of NCERT (with atleast two Kendriya Vidyalaya subjects as electives)

ii) Competence to teach through both Hindi and English media.

Note (a) For meritorious candidates without teaching Degree/Diploma for those candidates who have obtained 60% and above marks in the aggregate in BA/B.Sc. or equivalent examination and 55% marks and above in Master's Degree Examination. Essential qualification of University Degree/Diploma in Education/Teaching shall be relaxed for a limited period. Such candidates if selected, will be placed on "TRIAL BASIS" initially for a period of two years which may be extended only in exceptional cases by the appointing authority for a total period not exceeding 5 years from the date of initial appointment or as required depending on merit of individual cases, if the candidate is not able to acquire the teaching Degree/Diploma within the stipulated period of two years for reasons beyond his/her control no further extension will be granted.

(b) Applicant should have offered and passed the Bachelor's Degree from a recognised University with any of the following group of subjects.

i) Physics, Chemistry, Mathematics, Botany, Zoology;

ii) Botany, Zoology, Physics, Chemistry;

iii) English or Hindi or Sanskrit Literature as an elective subject;

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19

iv) For IGT (Social Studies) any two of the following subjects History, Geography, Political Science and Economics, as the case may be. Candidates with BA (Hons) in History/Political Science, Geography, Economics as a major subject as also eligible."

In addition to that, in the same advertisement, the eligibility part clearly provided that eligibility will be determined by the educational qualifications and age limit as on the closing date for receipt of applications.

5. In that back-drop, the first and foremost question that comes up for consideration is as to whether the applicant was qualified or not. On behalf of the applicant, reliance was placed on the fact that relaxation is provided for meritorious candidates who did not have the teaching Degree or Diploma and the applicant had scored more than 60% marks in B.Sc and, therefore, he must be taken to be duly qualified.

6. On careful consideration, we find that the said argument is without any merit. We have already reproduced above the relevant advertisement which is based on the recruitment rules for the post. It does provide that certain meritorious candidates who have scored more than 60% marks in aggregate in BA/B.Sc may not possess the required Degree pertaining to teaching but it further provides that the said candidates should also be having a Master's Degree with stipulated

CS Ag

number of marks i.e. 55%. Care and caution has been taken before a person is declared to be meritorious. He must have BA/B.Sc degree with 60% marks and Master's Degree with 55% marks. The meaning is clear and, therefore, the expression ^{and} "~~or~~" cannot be read as "^{or}and" because the intention is obvious that the meritorious candidates should also be qualified. It is not for this Tribunal to re-read the plain language that has been used in the advertisement or the recruitment rules.

7. Confronted with that position, it was contended that subsequently Degree in B.Ed even had been obtained but admittedly the same had been obtained in the year 1999. The advertisement referred to above, makes it clear that qualifications prescribed should be on the closing date for receipt of the applications. That was much before the applicant is stated to have obtained the B.Ed Degree as stated at the Bar.

8. Not only the advertisement makes it clear but the position in law otherwise also is well-settled. In the case of **Ashok Kumar Sharma and Ors. v. Chander Shekhar and Another**, 1997 (4) SCC 18, the Supreme Court categorically held that if a person acquires the prescribed qualification subsequent to such prescribed date, he cannot be considered to be duly qualified and

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otherwise also once the advertisement has appeared, the concerned department is bound by the same.

9. In the case of **Bhupinderpal Singh and Ors. v. State of Punjab and Others**, (2000) 5 SCC 262 also the Supreme Court even went further that even if the date was not prescribed for eligibility as per qualification, the same should be when the application is required to be filed. The Supreme Court held:-

"Such a loose practice, though prevalent, cannot be allowed to be continued and must be treated to have been put to an end. The reason is apparent. The applications made by such candidates as were not qualified but were in the process of acquiring eligibility qualifications would be difficult to be scrutinised and subjected to the process of approval or elimination and would only result in creating confusion and uncertainty. Many would be such applicants who would be called to face interview but shall have to be returned blank if they failed to acquire requisite eligibility qualifications by the time of interview. In our opinion the authorities of the State should be tied down to the principles governing the cut-off date for testing the eligibility qualifications on the principles deducible from the decided cases of this Court and stated hereinabove which have now to be treated as the settled service jurisprudence."

10. Looking at the matter of the applicant thus from either angle, it is obvious that the applicant cannot contend that he was qualified on any count.

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2

11. Resultantly, the application being without merit, must fail and is dismissed. No costs.

Announced.

V.K. Majotra

(V.K. Majotra)
Member (A)

V.S. Aggarwal

(V.S. Aggarwal)
Chairman

/sns/