

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.2467/2002

New Delhi, this the 23rd day of June, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri S.K. Naik, Member(A)

Mrs. Kiran
W/O Shri Jai Prakash
R/O 10/307, DDA Flats
Kalkaji, New Delhi-110019.

.. Applicant

(None)

versus

1. Government of National Capital Territory
of Delhi
Through
Chief Secretary
Delhi Sachivalaya, I.P.Estate
New Delhi-110002.
2. The Chairman
Delhi Subordinate Services Selection Board
UTCS Building
Vishwas Nagar, Shahdara, Delhi
3. The Director of Education
Directorate of Education
Delhi Sachivalaya,
I.P.Estate
New Delhi

.. Respondents

(Shri Vijay Pandita, Advocate)

ORDER(oral)

Justice V.S. Aggarwal

Applicant (Mrs.Kiran) passed her Higher Secondary Examination from the Central Board of Secondary Education in the year 1994. She sought admission for diploma in Home Science from the Board of Technical Education, Lucknow in 1995 and also joined Ist year Graduation from Ch.Charan Singh University, Meerut. She completed her diploma course in the year 1996 and the Graduation in the year 1997.



2. The Delhi Subordinate Services Selection Board issued an advertisement on 1.3.1999 inviting applications for various posts including that of Trained Graduate Teacher (Domestic Science) in the Directorate of Education. In response to the same, the applicant applied. She received the admit card and appeared in the written examination on 22.8.1999.

3. The grievance of the applicant is that she has not heard from the respondents ^{but has learnt} that her claim has been rejected on the ground that at the time of preparation of the results, a clarification was obtained from the Directorate of Education regarding the educational qualifications for the post. The clarification was given that the candidates who have done their diploma in Home Science after completing graduation may only be considered and the diploma in Home Science be equated with Bachelor of Education. It is on the said basis that the claim is said to have been rejected.

4. By virtue of the present application, she seeks quashing of the order of 18.6.2002 whereby her request for appointment as Trained Graduate Teacher (Domestic Science) had been rejected. She prays that a direction should be given to the respondents to consider her for appointment as Trained Graduate Teacher (Domestic



Science).

5. The application has been contested. According to the respondents, even if the applicant's name had been included in the list of successful candidates, it does not confer on her indefeasible right to be so appointed. It is reiterated that since the applicant had not obtained the diploma after Graduation, therefore, she was not entitled for being considered for the post.

6. After hearing the respondents' learned counsel, we are of the considered opinion that the application deserves to be allowed. Therefore, we proceed to record our reasons.

7. The impugned order dated 18.6.2002 reads as under:-

" In the light of the order of the Hon'ble CAT dated 16.4.2002 and reference to the letter/representation of Smt. Kiran dated 18.2.2002, I am directed to inform that the Board has examined her case in detail and she does not fulfil her educational qualifications as per the following recruitment rules:-

1. Graduate from a recognised University with Diploma from a recognised Institute
2. B.Sc. (Home Science) with Degree/Diploma in Training/Education

The Directorate of Education had clarified that only those diplomas would be valid which has been done after Graduation.

It has been seen that Smt Kiran has done her diploma in 1996 and the graduation in 1997, hence



she do not fulfil the eligibility criteria.

The view of the above, her case cannot be considered."

It is apparent from the aforesaid that the claim of the applicant basically had been rejected on the ground that she did not obtain the diploma after Graduation.

8. Admittedly, the recruitment rules pertaining to the post prescribe the following qualifications:-

- "A. Graduate from a recognised university with diploma in Home Science from the recognized institution
- B. B.Sc. (Home Science) with degree/diploma in training education."

In the advertisement that appeared on 1.3.1999, similar qualifications were prescribed which are as under:-

- "1. Graduate from a recognised university with diploma in Home Science from the recognised institution
- 2. B.Sc. (Home Science) with degree/diploma in training/education."

9. Once the matter is governed by the recruitment rules and the advertisement has been issued in accordance with the same, the department is as much bound by the same. The department cannot add or subtract anything therein. In the advertisement as well as the recruitment rules, there is no mention that the diploma must be obtained after Graduation. It is well-settled principle




in law that instructions cannot be issued to ^{over-ride} ~~supplement~~ the recruitment rules. If a clarification is required, it can be given. However, instructions cannot override the written provisions of the recruitment rules.

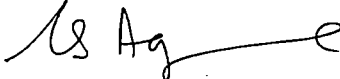
10. Herein the advertisement as well the recruitment rules do not make it as a condition precedent that the person concerned must be a diploma holder from a recognised University and it must be obtained after Graduation whereas the department is reading the same which would be contrary to the plain language of the recruitment rules. Therefore, the clarification that had been given which runs contrary to the recruitment rules must be held to be invalid. We have no hesitation in quashing the same.

11. Accordingly, we allow the application and quash the letter dated 18.6.2002 (Annexure A). It is directed that the result of the applicant may be declared and she should be considered on the merits of the matter as to if she has to be appointed or not. The decision in this regard be preferably taken within a period of three months from the date of receipt of the certified copy of this order. No costs.

Announced.


(S.K. Naik)
Member (A)

/sns/


(V.S. Aggarwal)
Chairman