

Central Administrative Tribunal
Principal Bench

(9)

OA No. 3379/2002

New Delhi, this 8th day of September, 2003

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

1. Mahender Singh,
S/o Shri Raghbir Singh.
2. H.K. Sharma
S/o Shri Ram Sarup
3. Lal Chand
s/o Shri Shimbhu Dayal,
(All c/o Mr. Ravinder Sharma
H.No. 5829/2, Jawahar Nagar,
Delhi - 110 007.)

... Applicants

(By Shri S.K. Sharma, Advocate)

Versus

1. Government of N.C.T. of Delhi
through Principal Secretary (Services)
Govt. of NCT of Delhi,
Delhi Secretariat,
Players Building,
ITO, New Delhi - 110 002.
2. The Director of Education,
Directorate of Education,
Old Secretariat,
Delhi.

... Respondents

(By Shri Ajesh Luthra, Advocate)

ORDER (ORAL)
Justice V.S. Aggarwal

So far Shri Mahinder Singh - applicant no. 1, along with others were seeking the relief to direct the respondents to place their names in the respective position of promotion list and for promotion to be granted in accordance with seniority. During the course of submissions, learned counsel for the applicants has made a statement withdrawing the petition filed by Mahinder Singh. Accordingly, it is dismissed as withdrawn.

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2. The applicants had joined the Directorate of Education as Trained Graduate Teachers. The next promotion from the post of Trained Graduate Teacher is Post Graduate Teacher. As per the recruitment rules 75% of the total posts of the Post Graduate Teachers are filled up through promotion. The educational qualification and experience required for promotion to the post of Post Graduate Teacher are:

"1. Master Degree or its equivalent oriental degree in the case of PGTT (Sanskrit/Hindi) in the subject concerned from recognised university.

2. Degree/Diploma in Training/Education.

3. Five years regular service in the grade.

3. The applicants' grievance is that their names were not included in the promotion list for the post of Post Graduate Teachers while their juniors have been promoted. It is in this backdrop, the above said reliefs are being claimed.

4. The petition has been contested. It has been pointed out that the contesting applicants had not applied for inclusion of their names in the eligibility list in the prescribed proforma when such proforma was invited. The respondents had issued ad hoc promotion order on 12th December, 2002 based on tentative eligibility list. The contesting applicants could not be promoted as their names were not in the old list. Their representations were received and will be looked into and their case shall be placed before the Departmental Promotion Committee.

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5. During the course of submissions, the controversy boiled down to a very narrow compass. Learned counsel for the respondents pointed out that a list was circulated and the eligible Trained Graduate Teachers had to fill up the proforma indicating their educational qualifications and experience. The contesting applicants did not do so and, therefore, their names had been ignored.

6. Such an exercise may be necessary in those cases where a person acquires higher qualification required for promotion post while he is serving. If a candidate is already qualified and possesses the necessary educational qualification when he joined the service (may be on lower post) in that event such an exercise would be an exercise in futility. The respondents are also required to look into the records while effecting the promotion.

7. In the present case before us, applicant - Lal Chand is stated to be having a Master Degree in the subject with an additional qualification of B.Ed before he joined as Trained Graduate Teacher. So far as applicant - H.K.Sharma is concerned, he was also having a Master's Degree in Hindi when he joined service in the year 1974 but the qualifications were added in his record in the year 1981.

8. It has more often than once been stated that equality and arbitrariness are severe enemies. In the facts of the present case it appears to be so. The applicants were eligible and, therefore, they had a right to be considered for the promotion as Post Graduate

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Teachers. Seemingly, they have suffered because the respondents did not look into their records to see their educational qualification. Resultantly, the just claims of the applicants thus have been ignored for the fault of the respondents themselves.

9. Resultantly in the absence of any other controversy, we allow the present application and direct the respondents to consider the claims of the applicants as per their educational qualifications available on the record and take a conscious decision preferably within two months of the receipt of the order.

U.S. Aggarwal

(R.K. Upadhyaya)
Member (A)

V.S. Aggarwal

(V.S. Aggarwal)
Chairman

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