

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1485/2002

Monday, this the 3rd day of June, 2002

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri S.A.T. Rizvi, Member (A)

Ms. Sunita Mumgaie
W/O Shri Rishi Dev Mumgaie
R/O A-56, Rishi House
East Vinod Nagar, Lane No.8
Near Mayur Vihar Ph.II
Delhi-9

..Applicant
(By Advocates: Dr. Surat Singh & Shri Mamta Rani)

Versus

1. Govt. of NCT of Delhi through its
Chief Secretary
5, Sham Nath Marg
Delhi-54
2. The Director of Education
Govt. of NCT of Delhi
Old Secretariat
Delhi-54
3. Delhi Subordinate Services Selection Board
3rd Floor, UTCS Building
Institutional Area
Behind Karkardooma Courts Complex
Shahdara
Delhi-32

..Respondents

O R D E R (ORAL)

Shri S.A.T. Rizvi:

Twenty nine posts of TGT (Social Science) (female) were notified vide advertisement issued on 1.3.1999. Twenty two of these fell in the general category to which the applicant belongs. It appears that subsequently the number of vacancies was increased to fifty seven providing for twenty five posts for general category candidates. The applicant, though selected, has not been appointed. She accordingly approached this Tribunal through OA-1947/2000 which was decided on 7.8.2001. The respondents were, by the same order,

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directed to consider the applicant's representation and to communicate their decision on it within a period of six weeks. In pursuance of the aforesaid direction, the respondents have passed orders dated 21.9.2000 (A-4) rejecting the applicant's claim by stating, *inter alia*, as under:-

"In this case, though Mrs. Mumgaie's name figures in the panel, unfortunately she could not be offered appointment because before her turn could come, the vacancies had exhausted."

2. Thereafter, the respondents issued yet another advertisement on 12.12.2000 notifying twenty four vacancies of TGT (Social Science) (female), including eleven for the general category candidates. After the said advertisement had been issued, the applicant filed a detailed representation once again on 7.11.2001 (A-5), i.e., nearly one year after the aforesaid advertisement had been issued. In this representation, she has placed reliance on DOPT's Office Memorandum dated 8.2.1982 (A-8). The aforesaid representation has, however, been rejected by letter issued on 9.1.2002 (A-6) providing as under:-

I am directed to invite a reference to your letter dated nil received in this Directorate on 8.11.2001 on the above subject and to inform that your request has been considered and rejected by the Director of Education."

3. The learned counsel appearing on behalf of the applicant submits that if the respondents had correctly followed the clarification issued by the respondents vide Office Memorandum dated 8.2.¹⁹⁸² ~~2002~~ (A-8), the

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applicant could be considered for appointment even though she could not make it initially. The learned counsel also submits that the applicant could still be considered against one of the vacancies very recently notified on 13.5.2002. The aforesaid advertisement provides for thirteen vacancies for general category candidates against the total of twenty six vacancies.

4. We have considered the submissions made by the learned counsel. The respondents' letter dated 9.1.2002 (A-6) by which the applicant's prayer has been rejected does not assign any reason for rejecting the applicant's claim. The same also does not deal with the provisions made in the aforesaid Office Memorandum dated 8.2.1982 (A-8). To this extent, the aforesaid letter dated 9.1.2002 (A-6) is a non-speaking letter which does not contain any reasons.

5. We have carefully perused the aforesaid Office Memorandum dated 8.2.1982. It is rather unhappily worded. However, on its basis, the learned counsel has insisted that the applicant's claim could be validly considered. In these circumstances, we find it just and proper to dispose of the present OA at this very stage even without issuing notices with a direction to the respondents to ignore the impugned letter dated 9.1.2002 (A-6) and to pass instead a reasoned and a speaking order by relying on the aforesaid Office Memorandum dated 8.2.1982 (A-8) together with such other instructions on the subject as might be available. This they should do within a period of two months from the date of receipt of

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(4)

a copy of this order. We direct accordingly. Since the vacancies recently notified in May, 2002 are yet to be filled up, we further direct the respondents to keep one of these vacancies unfilled until they have decided the matter by passing a reasoned and a speaking order as above.

6. The present OA is disposed of in the aforesated terms at the admission stage itself. No costs.

(S.A.T. Rizvi)
Member (A)

(Ashok Agarwal)
Chairman

/sunil/