

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
New Delhi**



OA No.2187/2019

New Delhi, this the 15th Day of January, 2020

**Hon'ble Mrs. Justice Vijay Lakshmi, Member(J)
Hon'ble Mr. Pradeep Kumar, Member (A)**

Jyoti Leekha, W/o Sh. Gurdayal Singh
R/o B-3, D.D.A. Market
Jahangir Puri, New Delhi-110033.

Aged about 45 years(Guest Teacher)Applicant

(By Advocate: Ms. Pragya Routray)

Vs.

1. Govt. of NCT of Delhi
Through its Chief Secretary
I.P. Estate, 5th Floor
Delhi Sachivalaya, New Delhi.
2. Directorate of Education (GNCT of Delhi)
Through its Director
1st Floor, Patrachar Vidyalaya Building
Timarpur, Delhi-110054.
3. The Deputy Director (Education)
GNCT of Delhi, North-West(A) Zone
BL-Block, Shalimar Bagh
New Delhi.
4. Govt. Girls Senior Secondary School
(School ID 1309260)
Through its Principal
K-Block, Jahangir Puri
Delhi-110033.Respondents

(By Advocate: Shri R.K. Jain)

Order (Oral)



Mr. Pradeep Kumar, M(A)

The applicant herein had been working as a Guest Teacher in different schools being run by Directorate of Education, GNCTD. She started working in the year 2010-2011 in a school known as SKV, Rani Chennama, Block-D, Jahangirpuri, Delhi. Thereafter, in the next academic session i.e. 2011-2012 she worked at SKV Adarsh Nagar, Delhi. Thereafter, she worked in the academic session 2012-2013 under GGSSS, K-Block, Jahangirpuri, Delhi, in morning shift. As per the record submitted by the applicant she had worked in all subsequent sessions at the same school in same morning shift.

Hence, it was also mentioned that schools run in two shifts: morning and evening. The guest teachers are given a specific identity which is linked to shift also and for this purpose even if school is run in same premises, the school will have a separate identity for morning and evening shift and accordingly the identity of guest teacher also changes. This identity is important for a candidate as when dis-engagement takes place, the

junior most guest teacher in a school, is likely to be dis-engaged first.



2. The Directorate of Education issued a public notice on 28.07.2014 indicating certain directions in respect of appointment of Guest Teachers. In follow up to this, the respondents did not engage the applicant for academic session 2014-2015 on the plea that the applicant did not have the CTET qualification. There were several such candidates who were aggrieved at such denial of appointment and a large number of OAs were filed with the Tribunal. These OAs were decided vide order pronounced on 26.11.2014 (OA No.2671/2014 and batch). The applicant herein was applicant no.79 in OA No.2671/2014. The Tribunal gave several directions. However, for the controversy at hand, the direction relevant is contained in para 39 of operative part in sub para (iv) thereof. This is reproduced as under:-

“(iv) Since in terms of the impugned Public Notice dated 28.7.2014 as well as circular dated 8.5.2014(ibid) the candidates for appointment as Guest Teachers are exempted from CTET/TET, the Guest Teachers, who worked during previous academic sessions, may not be substituted by another set of Guest Teachers on the ground that they have not passed the CTET/TET. Nevertheless, the respondents can always take a decision to not



appoint such individual, who have not passed CTET/TET, as Guest Teachers. In such situation, such Guest Teachers, who have not passed CTET/ETE, can always be substituted by the freshers, who have passed CTET/TET.”

3. In compliance to the above directions, the applicant was offered the appointment as a Guest Teacher in the same school, namely, GGSSS, K- Block, Jahangirpuri, Delhi in morning session even without CTET qualification and under her same identity 2013284920 which was allotted to her in 2013-14 while she was working in morning shift in this school and where she joined again on 16.01.2015 in compliance to Tribunal's directions. The applicant had been working in morning shift in this school under same identity as a Guest Teacher since that time right until end of 2018-19 session.

4. In regard to “redeployment of Guest Teachers in the Academic Session 2019-2020”, the respondents issued an office order dated 02.07.2019 wherein certain policy directives were issued on how to deal with the Guest Teachers who are declared surplus on account of recruitment of regular teachers.

The respondents issued an order on 01.07.2019

which reads as under:-

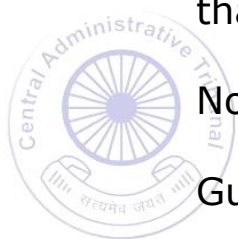


"Mr/Miss. Jyoti Leekha, Guest Teacher: Emp Id: 2013284920, TGT Natural Science, stands Relieved w.e.f. 01/07/2019 from this school on account of surplus due to PFC w.e.f. 01/07/2019."

Note: PFC here stands for Post Fixation Cell, which monitors engagement of guest teachers and maintains their lists both school wise and shift wise.

At this relieving, the applicant felt aggrieved and had filed the instant OA seeking relief in the form of quashing and setting aside the impugned order dated 01.07.2019 and to hold and declare that the applicant has wrongly been denied engagement/appointment as a Guest Teacher-TGT (Natural Science) for the Academic year 2019-2020 in morning shift of this school and to direct the respondents to appoint the applicant forthwith in the same school for the ongoing session and the subsequent sessions till there is requirement, with all consequential benefits.

5. Notices were issued. The respondents have submitted their counter reply to which a rejoinder has also been submitted.



6. In the counter reply, the respondents had affirmed that it was in compliance to directions in OA No.2671/2014 that the applicant had been engaged as a Guest Teacher on 16.01.2015. In accordance with this date and as per the instructions, she stands at seniority Sl.No.11 for morning shift of GGSSS, K-Block, Jahangirpuri School and there are ten other guest teachers who were engaged as Guest Teachers on earlier dates and hence are senior to applicant. Accordingly, applicant was reckoned to be the last entrant to work as Guest Teacher in morning shift at this school and on being declared surplus, her services were disengaged following "Last in First Out" principle.

7. The applicant, however, fairly mentioned that after the instant OA has been filed, she has been engaged as a Guest Teacher in the same school, though not in the morning shift but in the evening shift. On being queried, the applicant clarified that though the school is running in the same premises, for the purposes of giving a specific identity to the Guest Teachers, the school identity for first shift and the identity for the second shift are different. As such she has now been given a new identity.



In this context, the applicant further pleaded that now since she has been given a new identity with date of joining being in the year 2019, she will be treated to be the last entrant in evening shift at this school and in the eventuality of there being any surplus, she will be the first to be relieved following "Last in First Out" policy.

8. The applicant has also submitted that this will be grave injustice to her as she has already been working as a Guest Teacher since 2012-2013 at this school (GGSSS, K-Block, Jahangirpuri) and in morning shift under identity No.2013284920 since 2013-14.

9. The applicant has fairly mentioned that she has already passed the CTET examination in September, 2015 i.e. after 16.01.2015 when she was engaged, without CTET qualifications in terms of orders in OA 2671/2014.

This contention was agreed by the respondents, as also seen from their counter reply. The respondents pleaded that since the date of joining of the applicant was 16.01.2015, she has rightly been relieved on the principle

of “last in first out” which was enunciated in the policy order dated 02.07.2019.



10. The matter has been heard at length.

11. It is noted from the record brought out in the OA, which has not been refuted, that the applicant herein had been working in the morning shift of the school known as GGSSS, K-Block, Jahangirpuri, Delhi from the academic Session 2012-2013 and if the total number of days served by the applicant in this school (morning shift) are taken into account, she has served for a total of 1,322 days during the period from 2012-2013 to academic session 2018-2019. This is the highest amongst the 11 candidates for whom data was attached.

In this context, the next teacher with second highest number of days had completed 1045 days.

12. Once the policy directives to engage CTET qualified candidates were issued in the year 2014 and Guest Teachers were to be engaged for 2014-2015, the applicant was not considered as she did not have CTET. On being aggrieved, the matter was brought before the Tribunal in OA No.2671/2014 wherein it was decided and



in compliance to these directives (para 2 supra) that the applicant was reengaged on 16.01.2015 under the same identity number 2013284920. Therefore, it will not be correct to discount the services rendered by the applicant in the earlier academic sessions in the morning shift of this school and least of all under this very identity number which started from 2013-14 when she joined on 18.09.2013.

13. In view of the foregoing, treating the applicant as if she was appointed on 16.01.2015 is not considered to be correct. It cannot be sustained.

14. In view of this, the directions issued by the respondents on 01.07.2019 cannot be sustained and the same are set aside (para 4 supra).

However, keeping in view that the existing teaching arrangement in the morning and evening session in the school are not disturbed and in the interest of students from academic point of view, a working arrangement is needed.

Keeping in view that the applicant has already been engaged at the same school, though in the evening



session, the respondents are directed to treat the date of engagement of the applicant as 18.09.2013, when she had originally joined for the academic session 2013-2014, so that she does not unduly suffer the consequences of "Last in first out", policy issued vide order dated 02.07.2019.

The above arrangement will remain in force for the current session 2019-20.

15. The respondents are also directed that they shall review the position for 2020-21 and if there is need for guest teachers in the morning session of the GGSSS, K-Block, Jahangirpuri school, her claim for the same, under identity no.2013284920 with date of joining as 18.09.2013, shall be kept in view. OA is disposed of accordingly. Pending MAs stand disposed of accordingly. There shall be no order as to costs.

16. The above directions are in respect of the instant applicant and in keeping with peculiar circumstances of this case and shall not be quoted as a precedent.

(Pradeep Kumar)
Member(A)

(Justice Vijay Lakshmi)
Member(J)

/vb/

