

Central Administrative Tribunal, Principal Bench

Original Application No. 1216 of 2001

New Delhi, this the 21th day of February, 2003

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. A.P. Nagrath, Member (A)

1. Shri Chandra Parkash,
S/o Shri Shyam Lal
Aged about 37 years,
R/o 1259, Jehangirpuri,
Delhi-33
2. Shri Devender Singh,
S/o Shri Vir Singh,
Aged about 35 years,
R/o C-63A, Gali No.8
Jyoti Colony, Shahdara,
Delhi-32
3. Shri Trilok Chand
S/o Shri Ganga Sharan,
Aged about 36 years,
R/o C-65A, Gali No.8
Jyoti Colony, Shahdara,
Delhi-32

.... Applicants

(By Advocate: Shri S.S. Tiwari)

Versus

1. Govt. of N.C.T. of Delhi
through its Chief Secretary
New Secretariat
I.P. Estate,
New Delhi-1.
2. Director of Education,
Directorate of Education,
Old Secretariat
5 Sham Nath Marg,
Delhi.
3. The Dy. Director (Edn)
District North-East,
Yamuna Vihar, Delhi.
4. Deputy Director of Education (A)
Directorate of Education (Estt. III) Br.
Old Secretariat,
Delhi

.... Respondents

(By Advocate: Shri Ashwini Bhardwaj, proxy for Shri Rajan Sharma)

O R D E R

By Justice V.S. Aggarwal, Chairman

Applicants are working as Assistant Teachers in



the Directorate of Education of the respondents. They are all B.Sc. (Agriculture) besides certain other qualifications which are not relevant for purposes of the present application. On 1.5.2000, respondents invited applications from eligible Assistant Teachers to be considered for promotion as Trained Graduate Teacher (TGT) (Natural Science). The applicants applied for the post as they had the relevant experience of five years. They were not considered for promotion as their names did not figure in the promotion list. They submitted representations in this regard. The applicants came to know that their names were not considered as they were not eligible in terms of the recruitment rules dated 27.2.97. By virtue of the said rules, B.Sc.(Agriculture) is not one of the subjects mentioned in the recruitment rules and other qualifications are same as prescribed for direct recruits.

2. By virtue of the present application, the applicants seek quashing of the condition in the recruitment rules wherein some educational qualifications are prescribed as that of direct recruits and that they should be considered for promotion to TGT (Natural Science).

3. Application has been contested. It is denied that there is any discrimination against the applicants. Recruitment rules are stated to have been framed prescribing experience in addition to similar educational qualifications as that of direct recruits in case of promotion from Assistant Teacher to TGT. Recruitment

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through direct recruitment and promotion are two different methods of recruitment. It is denied that the applicants are left with no promotional avenues. According to the respondents, if the applicants acquire educational qualifications, they are eligible for promotion as TGT/PGT/Vice Principal etc. It is further denied that there is any contradiction in the recruitment rules or that the applicants have been deprived of the promotion.

4. We know from the decision of the Supreme Court in the case of Raghunath Prasad Singh vs. Secretary, Home (Police) Department, Government of Bihar & others, 1988 (Supp) SCC 519 that there should be some avenues of promotion to the service employees to inculcate more interest and efficiency therein. The Supreme Court held:

"Reasonable promotional opportunities should be available in every wing of public service. That generates efficiency in service and fosters the appropriate attitude to grow for achieving excellence in service. In the absence of promotional prospects, the service is bound to degenerate and stagnation kills the desire to serve properly. We would, therefore, direct the State of Bihar to provide at least two promotional opportunities to the officers of the State Police in the wireless organisation within six months from today by appropriate amendments of Rules."

5. Similarly in the case of Dr. Ms. O.Z. Hussain vs. Union of India, 1990 (Supp) SCC 688, similar findings were arrived at and Supreme Court even gave directions:

"7. This Court, has on more than one occasion, pointed out that provision for promotion increases efficiency of the public service while stagnation reduces efficiency and makes the service ineffective. Promotion is thus a normal incidence of service. There too is no justification why while similarly placed officers in other ministries would have the

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benefit of promotion, the non-medical 'A' Group scientists in the establishment of Director General of Health Services would be deprived of such advantage. In a welfare State, it is necessary that there should be an efficient public service and, therefore, it should have been the obligation of the Ministry of Health to attend to the representations of the Council and its members and provide promotional avenue for this category of officers. It is, therefore, necessary that on the model of rules framed by the Ministry of Science and Technology with such alterations as may be necessary, appropriate rules should be framed within four months from now providing promotional avenue for the 'A' category scientists in the non-medical wing of the Directorate."

6. So far as the said proposition is concerned, there is no controversy but the position herein is different. The applicants are B.Sc. (Agriculture). The recruitment rules for the post of TGT had undergone an amendment. The qualifications prescribed for direct recruits are -

"I.A Bachelor's Degree (Pass/Hons) from a recognised University or equivalent having secured at least 45% marks in aggregate of having studied to a level not lower than ancillary/subsidiary subjects indicated in any of the followings groups:-

1. English as main subject at graduation level with one of the following subjects:-

(i) History (ii) Pol.Science (iii) Economics (iv) Commerce (v) Geography (vi) Agriculture (vii) Horticulture.

2. Mathematics as main subject at graduation level with one of the following as second subject:-

(i) Chemistry (ii) Physics (iii) Biology (iv) Botany (v) Computer Science (vi) Zoology (vii) English (viii) History (ix) Pol. Science (x) Economics (xi) Commerce (xii) Geography (xiii) Agriculture (xiv) Statistics.

3. Social Science: At least two of the following main subjects at graduation level: (i) History (ii) Pol. Science (iii) Economics (iv) Commerce (v) Geography

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(vi) Agriculture (vii) Horticulture."

Same educational qualifications have been prescribed for persons seeking promotion.

7. Learned counsel for the applicants contended that the said qualifications so prescribed, are discriminatory because a direct recruit can be inducted as TGT without any experience while so far as the applicants are concerned, they have the experience and, therefore, the educational qualifications cannot be insisted upon.

8. At the outset, we deem it necessary to mention that this is a policy matter. The department, keeping in view the necessary experience that they have of the work of teacher, prescribed the necessary qualifications. Unless the same appear to be unconscionable or they are discriminatory violating Articles 14 and 16 of the Constitution, this Tribunal will not be in a position to quash the same.

9. If in addition to the experience, the educational qualification prescribed is the same as that of a direct recruitment, we are of the opinion that the same is valid because when applicants have to perform more arduous nature of duties as TGT, it was thought necessary that they should be equally qualified as a direct recruit and should have the degree of Bachelor of Science in the discipline prescribed. This is for the obvious reason that the applicants are required to teach higher classes. When they were recruited as Assistant Teachers, they were teaching lower classes and therefore even with

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the degree that they have, they may be able to do the needful. Keeping in view these important facts, we find that the experience plus educational qualifications so prescribed, cannot be termed to be discriminatory. There is no ground, therefore, to quash the recruitment rules.

10. For the reasons given above, the prayer of the applicants for quashing the recruitment rules is rejected. However a lesser relief can be granted following the decision of the Supreme Court in the case of Raghunath Prasad Singh vs. Secretary, Home (Police) Department, Government of Bihar & others, 1988 (Supp) SCC 519 (supra) and in the case of Dr. Ms. O.Z. Hussain vs. Union of India, 1990 (Supp) SCC 688 (supra).

11. It is directed that the respondents may take an exercise and in case the applicants do not have any avenues of promotion, they may frame a Scheme whereby the applicants may have a proper avenue of promotion. While doing so, the interest of students should not be ignored in terms that only well qualified teachers are taken to teach and take their classes.

lwp

(A.P. Nagrath)
Member (A)

/dkm/


(V.S. Aggarwal)
Chairman