

(10)

Central Administrative Tribunal  
Principal Bench: New Delhi

O.A. No. 838/99

New Delhi this the 14th day of December 1999

Hon<sup>ble</sup> Mr. Justice V. Rajagopala Reddy, VC (J)  
Hon<sup>ble</sup> Mr. R.K. Ahooja, Member (A)

Km. Vandana  
D/o Shri Ranbir Singh, R/O B-18, Chandley Lok Colony,  
Mandoli Road, Shahdara,  
Delhi-110032. ...Applicant

(By Advocate: Shri Ajesh Luthra)

Versus

1. Govt. of NCT of Delhi,  
through Secretary,  
Directorate of Education,  
Old Secretariate,  
Delhi.

2. The Director of Education,  
Govt. of NCT Delhi,  
Old Secretariate,  
Delhi.

...Respondents

(By Advocate: Shri K.K. Singh proxy for  
Shri Raj Singh)

ORDER (Oral)

By Mr. R.K. Ahooja, Member (A)

The applicant applied for the post of TGT (Maths) in response to the advertisement, Directorate of Education Govt. of NCT of Delhi dated 21.1.97 (copy of Annexure A-2). She belongs to OBC category and claims that as per the marking scheme revised by the respondents for making selections to the post of Teacher, she was entitled to 42 marks. The respondents' department fixed the cut-off point with 41 marks even so she was not given the appointment. It is aggrieved by this decision of the respondents that she has approached the Tribunal.

An

11

2. The respondents in the reply state that the applicant obtained only 39 marks. According to respondents she had claimed that she had participated in a tournament at the national level but it was verified that the tournament in which she claimed participation was not a recognised one either by the Indian Olympic Association or the State Olympic Association and the requisite certificate was not available from the Dy. Director Education(Sports). Since the cut-off marks were 41, the applicant having obtained only 39 marks, was not entitled to the appointment as T.G.T.

3. We have heard the counsel.

4. On instructions, the learned counsel for the respondents states that 101 applications were received against the vacancy of TGT (Maths) in the OBC category. Against that 51 candidates were called for verification of their certificates etc. and out of them 21 were given appointment since the remaining either did not come or they did not have the necessary eligibility conditions as per their certificates. The applicant was not appointed because she did not make the criteria of cut-off marks.

Ja

12

5. One of the contentions advanced before us by the learned counsel for the applicant is that while respondents had fixed 41 marks as cut off point for the female OBC TGT (Maths) candidates for the male TGT OBC a they fixed lower level cut off points at 36. This assertion of the applicant has not been denied by the respondents in the reply. They, however, state that the cut-off point in female and male categories are fixed at different levels keeping in view the number of applicants, the number of vacancies and marks obtained. Therefore, there cannot be any comparison between the male and female categories.

6. While the explanation given by the respondents is plausible it does not cover the facts of the present case. As stated by the learned counsel for the respondents there were atleast 51 vacancies to be filled in on the female side. The respondents were, however, able to get only 21 candidates which means that there were still 20 vacancies to be filled in. There is no allegation on the part of the respondents that the applicant did not fulfil the minimum qualifications laid down in the Recruitment Rules. Assuming that the number of eligible candidates were more than the number of vacancies, there could have been a rationale of fixing a cut-off marks. In the present situation when the number of candidates were less than the number of vacancies, the

Ju

benchmark was fixed which apparently was higher than that fixed for the male candidates. If the cut-off marks were fixed at 36 for the male candidates the same could have been fixed for the female candidates as well in view of the fact that at the cut-off point of 41 sufficient number of female candidates were not available. In view of this fact the discrimination between the female and male candidates in regard to fixation of the minimum cut-off marks cannot be accepted.

7. In the facts and circumstances of the case, we, therefore, consider it appropriate that the case of the applicant should be re-considered by the respondents. Accordingly this OA is disposed of with a direction to the respondents to consider the case of the applicant on the basis of the same minimum cut-off marks as in the case of male candidates and to consider her case for appointment as TGT (Math) Teacher if on the basis of the revised cut-off marks she makes the grade. This consideration will be undertaken within a period of three months from the date of receipt of a copy of this order. No costs.

*R.K. Ahooja*  
 (R.K. Ahooja)  
 Member (A)

*V. Rajagopala Reddy*  
 (V. Rajagopala Reddy)  
 Vice-Chairman (J)

cc.