

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1730/98

New Delhi, this 5th day of September, 2000

Hon'ble Shri Kuldip Singh, Member(J)
Hon'ble Smt. Shanta Shastry, Member(A)

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1. Sangeeta Gaur
108C, Saiduljaib
Opp. Anupam Apts, Saket
PO Mehrauli, New Delhi
2. Narinder Pal Kaur
73/8, Sector I, Pushp Vihar
Saket, New Delhi
3. Mangla Devi
566, Shyama Kunj
Chirag Delhi, New Delhi
4. Arund Grover
147, Savitri Nagar
Near Malviya Nagar, New Delhi
5. Mrs. Kusum Singh
459, DDA Janta Flat
Pehladpur, Delhi
6. Mrs. Meenu Bhambri
F-66, Pocket K
Sheik Sarai, Phase II
New Delhi

.. Applicants

(By Shri V.K. Rao, Advocate)

versus

1. Lt. Governor/Administrator
Delhi, Union Territory of Delhi
Raj Niwas, Delhi
2. Govt. of NCT of Delhi
5, Sham Nath Marg, Delhi
3. Director of Education
Old Secretariat
Alipur Road, Delhi

.. Respondents

(By Shri Vijay Pandita, Advocate)

ORDER

Smt. Shanta Shastry

This OA has been filed by the applicants who are working as part-time PGTs(Vocational) under R-1 schools seeking to regularise them as PGTs (Voc) in various disciplines. Applicants have further prayed that they should be treated as qualified for appointment on regular basis at par with those who are sought to be regularised, their inter-se seniority vis-a-vis other be maintained on the basis of number of years of service they have put on regularisation of their past service

from the of initial appointment be counted for purpose of seniority, pay fixation, further promotion and retirement benefits etc. and they should be given the arrears of salary by putting them in the graduate post of P) under the principle of equal pay for equal work.

2. The facts in brief are that the applicants were appointed as vocational part-time teachers in Stenography on various dates between 7.9.88 and 26.8.95 pursuant to advertisements issued by the respondents on 9.3.88 and 11.2.94. The applicants fulfilled the educational and other qualifications as mentioned in the said advertisements. Applicants were interviewed by a selection committee and only on the recommendation of the committee they were appointed to the posts. They have been since then working continuously without any break. They were being paid Rs.80 per hour for theory classes and Rs.50/- per hour for practical classes with a maximum limit of Rs.2000 per month. The applicants' plea is that though several years have elapsed and they have initially been appointed against vacancies specifically created, they have not been regularised.

3. There were no Recruitment Rules (R/R, for short) earlier for these posts. RRs have now been finalised and promulgated in August, 1995. Respondents have now decided that recruitment to 66 posts of PGT(Voc) and 50% of allied teachers (Voc) will be made by direct recruitment as per the provisions under the RRs and the part-time teachers fulfilling the educational qualifications as per the RRs will be treated as external candidates for direct recruitment to these posts with the exemption from being sponsored by

Employment Exchange along with other candidates also. Relaxation in age to part time teachers who have now become overaged is proposed provided they come within the limit under RRs on the date of joining as part time teachers.

4. Applicants are aggrieved that they have not been regularised till now. Though they have been taken as part time teachers they have been doing the work of full time teachers and have been successful teachers. They have no scope in getting alternative appointment as they are now overaged. They therefore need to be regularised. Further the learned counsel for the applicants contends that the RRs have come into force from 1.8.95. The applicants were recruited much earlier from 1988 onwards. Therefore it should not be insisted in the case of the applicants to fulfil the qualifications prescribed in the RRs. They should be regularised with the existing qualifications on the basis of which they were selected as part time teachers. Further, according to the learned counsel, the applicants who are six in number possess much higher qualifications than required under the RRs and the respondents are giving wrong interpretation to the RRs with the result the applicants are considered ineligible to apply to the post by way of direct recruitment. Thus both ways the applicants are left high and dry with nowhere to go and they are under the threat of disengagement when actually they hoped to be regularised. The learned counsel states that the Hon'ble High Court of Delhi in similar circumstances had issued directions to accommodate the workers of the Community Service Department on regular basis (CWP

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No.2655/87). The SLP was dismissed by the Hon'ble Supreme Court. The applicants' case being similar, they should also be regularised.

5. Learned counsel for the respondents submits that the application is not maintainable because the applicants are also the applicants in OA No.1129/96 filed by the Association of the applicants and it is still pending. Applicants had approached the Tribunal in MA and have withdrawn the same after being allowed to file a fresh OA. Applicants' plead that they are constrained to file the present OA because their association has not put forth their grievance in proper perspective. According to the learned counsel for the respondents, even though they were given the liberty to file the present OA so long as they continue to be the members of the said association, their OA cannot be maintainable and needs to be dismissed as barred by resjudicata. The reliefs claimed in both OAs are similar.

6. Learned counsel for the respondents contends that the application has been filed without any cause. These part time teachers are not entitled for regularisation to the post of PGT(Voc) because recruitment to these posts is to be made according to the RRs prescribed for the post. Their appointments have been made purely on a contingent basis with the specific condition that they are likely to be terminated at any time. They have no right for regularisation. There is nothing wrong in the respondents inviting names from Employment Exchange to fill up the vacant posts of PGT(Voc) in various disciplines in accordance with the RRs. It has been stated further that part time teachers who are already

appointed are from amongst those who are working in other departments as regular employees. Retired teachers are also appointed as part time teachers/experts. Applicants are welcome to compete with others for the posts of PGT(Voc) as per RRs. As regards interpretation of the qualification, the respondents submit that no decision as to whether these part time teachers are eligible or otherwise to the post of PGT(Voc) has been taken by the respondents. Therefore it is incorrect on the part of the applicants to conclude that government categorised the part time teachers as eligible or ineligible. The qualifications indicated in the advertisement for recruitment of part time teachers were decided in keeping with the teaching requirements of the vocational courses and remuneration admissible to them at that time. Their selection as part time teachers should not be construed as selection for the regular post of PGT(Voc). The procedure for recruitment to the post of PGT(Voc) is entirely different from that of selection of the part time teachers as there was no consideration of age for part time teachers but there is statutory age requirement for the post of PGT(Voc) as per the present RRs. Recruitment to the post of PGT(Voc) shall be governed by the RRs prescribed for these posts. Therefore, the question of not giving proper interpretation to these rules does not arise and the respondents have not treated the applicants either as eligible or ineligible. Applicants are not being threatened with the termination of their services so long as the work load of teaching of various vocational courses exists for them. Mere qualification and experience possessed by part time teachers alone do not qualify them to become PGTs.

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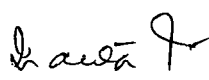
There are other requirements as per the RRs. the plea of the applicants that they are being treated as ineligible because they do not possess a particular qualification is hypothetical. Similarly their contention that they possess higher qualification than those prescribed in the RRs is not also tenable as the RRs have been framed after making judicial assessment of the requirements of the post. The learned counsel for the respondents also overruled that the judgement of the Hon'ble High Court in the case of community service workers is applicable in the case of vocational part time teachers. The learned counsel has cited several judgements in support that the applicants being part time employees have no right to the post.

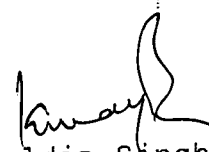
7. We have heard both the learned counsel for the parties and considered the arguments advanced by them. It is relevant to mention here that a similar case was considered by a coordinate bench of this Tribunal in the matter of Janardhan Sharma & Ors. Vs. Govt. of NCT of Delhi & Anr. in OA 1025/96 decided on 2.8.2000. The relief in that OA was similar to the relief by the applicants in the present OA namely regularisation of part time vocational teachers. That OA was dismissed in view of the authoritative pronouncement of the apex court in the case of K.S.Mahalingegowda & Ors. etc. V. Secretary to Govt., Deptt. of Vocational Edn. Karnataka & Ors. JT 1994(7) SC 738 and three judge bench of the apex court in State of Punjab & Ors. V. Surinder Kumar & Ors.(1992) 1 SCC 489. In both these judgements, the apex court held that part time teachers do not actually have any right for regularisation.

8. The present case therefore is squarely covered by the judgement in OA 1035/98 (supra). We are bound by this decision and cannot hold a different view particularly when the judgement is supported by the judgements of the apex court. (23)

9. As far as interpretation of the qualification prescribed for the post is concerned, in view of the submissions made by the respondents that they have not decided either eligibility or ineligibility of the applicants with regard to the educational qualifications, the applicants' apprehension is hypothetical. Applicants have not produced any material to show that they have applied for the post and their applications are being rejected because they are ineligible qualification-wise. The plea is therefore not maintainable.

10. In the facts and circumstances of the case, we find that the OA is not maintainable and liable to be dismissed. We do so accordingly but without any order as to costs.


(Smt. Shanta Shastry)
Member(A)


(Kuldip Singh)
Member(J)

/gtv/