

Central Administrative Tribunal, Principal Bench

Original Application No. 2134 of 1998

New Delhi, this the 17th day of December, 1999

Hon'ble Mr.Justice V.Rajagopala Reddy, Vice Chairman(J)
Hon'ble Mr.R.K.Ahooja, Member (Admnv)

Shri Ram Kishan son of late Shri Asha Ram,
resident of D-4, Nala Road, South Anarkali,
Delhi-110052 - Applicant

(By Advocate - Shri P.L.Mimroth)

Versus

1. The Administrator, Union Territory of Delhi, Raj Niwas, Delhi-110054.
2. Government of National Capital Territory of Delhi through its Chief Secretary, 5, Sham Nath Marg, Delhi-110054.
3. Director of Education, Government of National Capital Territory of Delhi, Old Secretariat, Delhi.
4. Union Public Service Commission through its Secretary, Dholpur House, Shahjahan Road, New Delhi-1110003 - Respondents

(By Advocate Shri Madhav Panikar)

ORDER

By R.K.Ahooja, Member(Admnv) -

The applicant had applied in response to the advertisement Annexure-A-1 of the UPSC for recruitment to the 94 posts of Principal in various Government Senior Secondary Schools. The applicant claims that he fulfilled the requirement of eligibility. He was called for interview as per letter Annexure-A-3. The Union Public Service Commission informed the applicant vide their letter dated 12.1.1998 (Annexure-A-10) that he had been recommended for appointment as Principal to the Secretary, Department of Education, Govt. of NCT, Delhi. An offer was thereafter duly made to him for the post of Principal by the Govt. of NCT Delhi vide letter dated 5.3.1998 (Annexure-A-11). The applicant gave his acceptance to the offer in person in the Directorate of

Education. At that time his certificates in original were again checked and verified but during the checking it transpired that there was a copy of Ph.D. degree in the file of the applicant. When a clarification was sought from the applicant he pointed out that the same did not belong to him. The grievance of the applicant is that thereafter he did not receive any communication from the department regarding his posting as Principal.

2. A reply has been filed by respondent no.4 Union Public Service Commission. They submit that against the 94 posts of Principal, 14 posts- 8 male and 6 female - were reserved for scheduled caste candidates and 10 posts were reserved for scheduled tribe candidates. In response to the Commission's advertisement 262 applications of male SC candidates were received. As there were 262 applications for 8 posts, it became necessary to fix a short listing criteria. As per this criteria the cut off point for EQ (iii) i.e. experience was fixed at 13 years after acquiring the EQ (i) i.e. the educational qualification. However, three years' weightage in experience was allowed to those possessing Ph.D. degree. There was another candidate Ram Kishan bearing the same name as the applicant who had the Ph.D degree but by mistake that Ph.D degree was placed in the folder of the applicant herein. On account of this mistake the applicant was given additional credit of three years' experience and was on that basis called for interview in which he was selected. It was at the time of verification in the Directorate of Education that the

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mistake was discovered and hence the recommendation in respect of the applicant was cancelled. The reply states that the applicant, without the benefit of the Ph.D degree did not have the requisite 13 years experience after acquisition of the minimum educational qualification and was, therefore, not entitled to be considered as per the short listing criteria.

3. We have heard the counsel and have also perused the records of respondent no<4 in regard to the short listing criteria. File No.F.1/18(4)/96-R.IV gives the following short listing criteria :

"Since the response is considerably good in case of Male SC, Male OBC, Female general and Male general candidates, before doing PS following guide-lines have been adopted in computing the experience towards EQ(iii) as were adopted in the previous case i.e. F.1/168/94-R.IV :-

1. Experience towards EQ(iii) has been counted only after acquiring EQ(i) i.e. P.G.Degree with second class.

2. Experience of teaching has been considered relevant only when it has been acquired in teaching 10th or higher class in a high/higher secondary school or an intermediate college.

3. Experience gained as PGT has been considered full experience but experience gained as TGT has been counted 75% equivalent to PGT. It means 25% of experience as TGT has been deducted while equating this with PGT. In other words, 20 years experience as TGT has been equated with 15 years experience of PGT.

4. The mandatory period of three years teaching experience as PGT has been laid down for short listing the candidates. In case a candidate possess sufficient number of years of experience towards TGT but possess less than 3 years experience as PGT has not been included in the list of called candidates.

5. Additional weightage towards experience as PGT has been given for the following qualifications :

1. Double or Triple M.A. - 1 year
(with second class)

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2. M.Ed. - 1 year
 3. M.Phil - 1 year
 4. Ph.D. - 3 years

(Candidates possessing Ph.D and M.Phil both have been given weightage of 3 years only)

6. Experience gained as Headmaster, Vice Principal or Principal for atleast two years.

7. Experience gained as Lecturer, Headmaster, Vice Principal and Principal has been equated to PGT experience under EQ (iii).

The application file of the applicant shows the following details as filled in by the applicant himself in his application form :-

MCD Edu. Teacher from 8.12.72 to 18.12.81
 Delhi Admin. TGT from 19.12.81 to 3.2.86
 Delhi Admin. PGT from 4.2.86 to 29.2.86
 (Lecturer)

The application also shows that the applicant had acquired the minimum qualification of MA in 1983 from the Delhi University.

4. In terms of the aforesaid criteria the experience of the applicant was to be counted only after acquiring the MA degree. This degree was acquired on 19.7.1983. Thus, he did not complete 13 years of experience on 29.2.1996 i.e. the last date for submitting the application. Even otherwise in terms of serial no.3 of the short listing criteria experience gained as TGT was to be credited to the extant of 75% only. The applicant was working as TGT between 19.12.1981 and 3.2.1986 for a period of 4 years 1 month and 14 days, 75% of which after acquisition of MA degree comes to 2 years 6 months and 13 days. The total experience of the applicant thus came to 11 years 11 months and 10 days as against the requirement of 13 years. Clearly the

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applicant was not eligible for being called for the interview on the basis of short listing criteria.

5. It was contended before us by the learned counsel for the applicant that the applicant had never claimed that he had the Ph.D degree; that the respondents had checked his certificates at the time he was interviewed and had accepted his eligibility; and that in any case the applicant had the minimum experience of 10 years laid down in the recruitment rules. Undoubtedly there is no allegation that the applicant had deliberately sought to mislead the respondents by claiming that he was in possession of a Ph.D degree. This mistake was entirely on the part of respondent no.4, whose explanation is that the other applicant bearing the same name of Ram Kishan had sent his original certificates without mentioning his roll number and, therefore, the same came to be placed by mistake in the dossier of the applicant before us. Even so, the fact remains that the applicant was not eligible in terms of the short listing criteria. If the applicant is given benefit of this mistake of the respondents then the same would be in contravention of the principle that there should be equality of opportunity available to all. This is because persons similarly situated who did not meet the short listing criteria were omitted from consideration. The mistake was discovered before the applicant was actually appointed to service and the applicant did not acquire a vested right merely because an offer was made to him and he had accepted the same. It is unfortunate that respondent no.4 did not detect the mistake at the time the applicant was interviewed. However, if the

principle of estoppel was to be applied in such cases then indirectly there would be an unintended effect of providing scope for malpractices whereby mistakes could be deliberately committed with permanent results. Therefore, notwithstanding the personal disappointment and the inconvenience caused to the applicant, we cannot overlook the fact that the applicant was ab initio not entitled to be considered in the facts of the case.

6. As fairly admitted by the learned counsel for the applicant the Union Public Service Commission has the right to fix a short listing criteria. This power, of course, has to be exercised fairly and not in an arbitrary and whimsical manner. In the present case as the number of candidates were many times the number of posts a short listing criteria became inevitable and one of the criteria was the condition of minimum experience. We cannot find in this criteria any arbitrariness or irrationality.

7. In view of the aforesaid facts and circumstances, the relief sought for by the applicant cannot be granted. Accordingly, the OA is dismissed. There will be no order as to costs.

R.K.Ahooja
(R.K.Ahooja)
Member (Admnv)

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

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