

Central Administrative Tribunal
Principal Bench
New Delhi

(26)

O.A. No. 1731/95 Decided on 5.1.99.

Ms. Gurjeet Kaur. Applicant
(By Advocate: Mrs. P. B. Verma.)

Versus

Commissioner-cum-Secretary Respondents
NCT of Delhi & Ors.
(By Advocate:

CORAM

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. RATAN PRAKASH, MEMBER (J)

1. To be referred to the Reporter or Not? YES
2. Whether to be circulated to other outlying
benches of the Tribunal or not? No.

Adige
(S.R. Adige)
Vice Chairman (A)

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

D.A.No.1731/95

New Delhi: this the 5th day of January, 1999.

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A)

HON'BLE MR. RATAN PRAKASH, MEMBER (J)

Ms. Gurjeet Kaur,
D/o Late S. Kartar Singh,
R/o WZ-11, Choukhandi Extn.,
Tilak Nagar,
New Delhi

..... Applicant.

(By Advocate: Mrs. P. B. Verma)

Versus

1. Commissioner-cum-Secretary (Education),
NCT of Delhi, Old Secretariate,
Delhi.

2. The Director E-III,
NST of Delhi,
Old Secretariate,
Delhi.

3. Ms. Sarabjit Kaur,
R/o A-1/124 B, Keshav Puram,
Delhi.

4. Ravinderjit Kaur,
WZ-124 B, Virender Nagar, Tilak Nagar,
New Delhi.

5. Navneet Kaur Duggal,
U-G-12, Usha Park,
Jail Road,
New Delhi - 64.

6. Naresh Bala,
C/o Govt. Boys Sr. Sec. School No. 1,
Khayala,
New Delhi - 18. Respondents.

(None for official respondents.

Shri O.P. Gupta for R-6)

ORDER

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

In this amended D.A, applicant seeks a declaration that the impugned marking scheme on

the basis of which TGTs were recruited in various disciplines in 1994 by respondents is arbitrary and invalid and the appointment of Respondents No.3 to 6 as (Punjabi) Language Teacher as TGTs is illegal and should therefore be cancelled. Applicant also seeks a declaration that she be declared as selected and be considered for appointment with effect from August, 1994 against an existing vacancy.

2. Applicant's case is that in 1994 respondents wanted to recruit teachers of various categories for filling vacancies in Govt. run schools for which purpose applications were invited from various candidates registered with the Employment Exchange as on 31.5.94 for the post of teacher to be filled up on regular basis. The last date for submitting applications was 19.6.94. Applicant applied in the prescribed form for the post of Language Teacher (Punjab) in TGT category. She states that she possessed the requisite qualifications for the post and has given the percentage of marks she secured in various examinations from the Sr. School Certificate Exam., 1982 onwards. She states that the mode of selection was not finalised by respondents till 25.7.94 and no call letter for interview was issued to the candidate. She states that without notifying the mode of selection respondents released a press notice that 1350 teachers had been declared appointed in order of merit and also notified that any candidate having any objection to this selection could approach respondents. She states that respondents changed the selection procedure, and replaced the written test and interview by a

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procedure which stipulated selection for teachers on the basis of the marks secured by the candidates at different levels of exams, from Higher Secondary to M.Phil. where the candidates secured equal marks, the older candidate would be preferred. Applicant states that as per this mode of selection, the cut off marks for Punjabi (Language) TGTs was fixed at 63 and 7 candidates were declared selected (Annexure-B) but her name did not figure in the list although on the basis of the aforesaid marking system, she secured a total of 64 marks.

3. Applicant asserts that Respondent No.3 Ms. Sarabjit Kaur was given marks for her incomplete MA to make her total reach 63; Respondent No.4 Ravinderjit Kaur was given 67 marks though she secured only 62; Respondent No.5 Navneet Duggal had not studied Punjabi language at school level; and respondent No.6 Naresh Bal was only B.A.B.Ed and yet she was awarded 63 marks and selected. She states that she submitted several representations to various higher authorities, but to no avail, compelling her to file this OA.

4. Official respondents in their reply challenged the OA. Besides taking preliminary objections on the maintainability of the amended OA, it has been challenged on merits also. It is stated that in the recruitment year 1994, 9 vacancies were notified for Punjabi Language, TGT, of which 7 were for general category; 1 for SC and 1 for ST. The crucial date for determining the eligibility of the candidates in all respects was fixed as 31.5.94. The applications received against the aforesaid notification were verified and the

candidates were awarded marks as per the approved marking system. They assert that the cut off marks fixed for general category candidates for LT(Punjab) was 63 and applicant having secured only 57 marks could not be considered for nomination. As regards Respondent No.3 they deny that she was awarded marks for incomplete MA degree and have given the break up of her marks totalling 64. Similarly as regards Respondent No.4 Ravinderjit Kaur, they state that she was provisionally nominated to West District with 67 marks including 5 marks for M.Phil qualification inadvertently, but when respondents came to know that she had wrongly been awarded marks for incomplete M.Phil degree, her nomination/appointment was cancelled vide order dated 13.10.94 which is on record. Similarly as regards Respondent no.5 Naveet Duggal, official respondents state that she secured 67 marks, and respondent No.6 Naresh Bala secured 63 marks while applicant secured only 57.

5. We have heard applicant's counsel Mrs. Verma. None appeared for the official respondents. Shri O.P.Gupta appeared for the private Respondent No.6 Naresh Bala (who had also filed a reply to the application for amendment) and was heard. We have perused the materials on record and considered the matter carefully.

6. The challenge to the aforementioned impugned marking Scheme had been considered in OA No. 1588/94

Roshni Rawat Vs. UOI & Ors. and by order dated 10.5.96 that challenge was repelled. Noting has been shown to us to establish that the aforesaid order has been quashed, modified or set aside, We as a coordinate Division Bench are bound by that order, and under the circumstance, the challenge to that Scheme in this OA fails.

7. Applicant has herself admitted that the last date for submitting applications by candidate was 19.6.94 and there is no denial in rejoinder to respondents' reply that the crucial date for determining the eligibility of the candidate in all respect was fixed as 31.5.94. There is also no denial in rejoinder to the specific statement in official respondents' reply that applicant qualified in M.Phil in October, 1994 i.e. after the cut off date of 31.5.94 and is thus not entitled to the 5 marks for passing M.Phil claimed by her, on the basis of which she asserts that she secured a total of 64 marks.

8. During the course of hearing Ms. Varma asserted that on the basis of the Delhi Sr. School Certificate Exam., 1982 applicant should have been awarded 10 marks for having secured 246/400 in the first 4 subjects, after excluding core English, instead of being awarded 8 marks for having secured 295/500. A perusal of respondents' reply indicates that in respect of all the private respondents the marks have been awarded not on the basis of 4 subjects in that exam. but on 5 subjects if not more. Any differential treatment given to applicant would

itself be discriminatory and violative of Articles 14 and 16 of the Constitution. Hence this ground fails.

9. During hearing it was also asserted that private respondents should not have been given 6 marks for English at graduation level, because as per the approved marking Scheme they were eligible for those marks only if they had taken English as an elective subject at B.A/B.Sc level. As per para 6 of official respondents' reply to which also there is no specific denial in rejoinder, applicant like Respondents No. 3, 4 and 6 has been awarded 5 marks for having done ^{English} at graduation level, and in case applicant's contention is accepted that those 5 marks were wrongly awarded to Respondents 3, 4 and 6, it must be deemed that they were also wrongly awarded to applicant, which would pull her total down to $57-5=52$.

10. As regards Respondent No.5 Naveet Kaur not having studied Punjabi Language at School level, even if that were so, neither the Recruitment Rules nor any instructions were shown to us by either side for us to hold that she thereby became ineligible for appointment as LT (Punjabi) and nothing in the impugned marking Scheme, the validity of which has been upheld as noticed earlier, makes her ineligible on that account either.

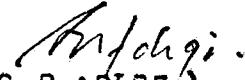
11. It was also argued that while the services of Respondent No.4 had been terminated by respondents ^{vide} order dated 13.10.94 that order had not been implemented

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and she was still continuing to work in Sarvodaya Vidyalaya, New Multan Nagar, Delhi. This should be looked into by official respondents forthwith, and appropriate action be taken in the matter in accordance with law, but even if this assertion was correct it does not give applicant an enforceable legal right to compel respondents to select her, if she is not otherwise eligible for selection in terms of the impugned marking Scheme.

12. In the result, the OA warrants no interference. Subject to what has been stated in para 11 above, the OA is dismissed. No costs.


(RATAN P RAKASH)
MEMBER(J)


(S. R. ADISE)
VICE CHAIRMAN(A).

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