

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. 1820/95

New Delhi this the 26th day of August 1997

Hon'ble Shri S.R.Adige, Member(A)
Hon'ble Dr.A.Vedavalli, Member(J)

Shri B.K. Vashisth,
S/o Shri P.Singh,
R/o B-50, Gali No. 2,
North Chhajipur, Shahadara,
Delhi-110094.

.....Applicant

(By Advocate: Shri S.S.Tewari)

Versus

1. Govt. of N.C.T. of Delhi,
through, Secretary Education,
Old Sectt, Delhi-54.

2. Director,
Directorate of Education,
Govt. of N.C.T. of Delhi,
Old Sectt, Delhi-54.

.....Respondents

(By Advocate:Shri S.S.Pawar proxy
for Shri Jog Singh)

ORDER(Oral)

By Hon'ble Shri S.R.Adige, Member(A)

1. Applicant prays for a direction to respondents to consider him for promotion as PGT Teacher from TGT Teacher w.e.f. 7.4.94 when the applicants juniors were promoted, with all consequential benefits.

2. Applicants' case is that he joined as T.G.T. on 1.11.83 and subsequently obtained Post Graduate Degree M.A. (English) in 1993 from Agra University and consequently he became eligible to be considered for promotion as a Post Graduate Teacher(P.G.T). He states that in February 1994, through an advertisement the respondents asked all the T.G.T's who had completed 5 years as T.G.T. and had obtained P.G.T. degree till 31.12.93, to contact Establishment

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Section and get their records updated. He states that he complied with the contents of this advertisement, but in April 1994 respondents issued a list of T.G.T's promoted as P.G.T's, in which his name was not included, which came to his notice in July 1994. He states that immediately thereafter he represented to the respondents but no reply was received. It is further contended that by order dated 20.7.94 124 more teachers were again promoted as P.G.T. but applicant name did not feature in that list either, and despite representations to the respondents, no reply was received, compelling him to file the O.A.

3. Respondents contended that DPC for 1993-94 was held in November 1993 on the basis of which promotion orders were issued on 10.12.93. Applicant was not eligible for promotion in 1993-94 as he was not an MA by the cut off date (31.12.93). As complete records were not available in respect of all the eligible candidates of 1993-94, the completed cases of the left out teachers of that year were placed before ~~whether~~ ^{another} DPC held on 9.3.94, where the DPC recommended some further promotions, & orders in respect of these teachers were issued on 7.4.94. Thereafter promotion in respect of teachers who became eligible in 1994-95 were taken up in which applicant was also eligible, ~~but~~ as he was very junior in the eligibility list, he could not be promoted in that year (1994-95), also, having regard to the limited number of vacancies.

4. In so far as the date of applicant having acquired MA degree is concerned, applicant has filed attested copy of certificate dated 1.3.94 from Assistant

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Secretary (Exam) certifying that applicant had passed M/A Exam (2nd year) in 1993 and his examination results had been declared by the University by 31.12.93.

5. Additional documents have been filed by both parties from time to time. Applicant contends that additional posts were created in 1994-95 against which he could have been adjusted, but respondents aver that of the 178 posts of PGTs/Lecturers which were created in 1994-95 the same were earmarked to different schools and different subjects and it was not possible to accommodate applicant against any of the same. The applicant in his affidavit dated 8.7.97 has contended that respondents have not taken into consideration the change vacancies arising consequent to promotions, retirements, death etc. as well as the 48 vacancies of PGT English in the general cadre which arose during 1994-95.

6. The question of available vacancies is essentially one of fact, and can be determined only after perusal of all the available records which are not available with us at present.

7. Under the circumstances we dispose of this O.A. with a direction to the respondents to examine the available records and determine conclusively whether a vacancy of PGT (English) in the general category arose in the year 1994-95, and if so consider adjusting applicant against the same, in accordance with rules and instructions, subject to his eligibility and seniority. While doing so, respondents will keep in view the Hon'ble Supreme Courts received by them in August 1994 and referred to in their additional affidavit dated 2.6.97 to

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the extent the same is applicable to the facts of the present case. These directions should be complied within three months from the date of receipt of a copy of this order.

8. The O.A. stands disposed of accordingly.

No costs.

A. Vedavalli

(DR. A. VEDAVALLI)
Member (J)

/cc./

Intake

(S. R. ADIGE)
Member (A)