

5

Central Administrative Tribunal, Principal Bench

Original Application No.2227 of 1996

New Delhi, this the 1st day of May, 2000

Hon'ble Mr. Justice Ashok Agarwal Chairman
Hon'ble Mr. V.K. Majotra, Member (Admnv)

Smt. Rekha Gupta renamed after marriage as
Smt. Rekha Modi, Daughter of Shri J.K. Gupta
and wife of Shri S.K. Modi, R/o A-93, Ashok
Vihar III, Delhi-110052

- Applicant

(By Advocate Shri D.R. Gupta)

Versus

1. Lt. Governor, Govt. of N.C.T. of Delhi,
Raj Niwas Marg, Delhi.
2. The Chief Secretary, Govt. of N.C.T. of
Delhi, 5, Sham Nath Marg, Delhi.
3. The Director of Education, Govt. of N.C.T.
of Delhi, Old Secretariat Delhi.

- Respondents

(By Advocate - None)

O R D E R (Oral)

By Mr. V.K. Majotra, Member (Admnv) -

The applicant is aggrieved by the decision of the respondents which has not been communicated to the applicant whereby the respondents have rejected the representation dated 28.5.1996 for consideration of her candidature to the post of Trained Graduate Teacher (Social Sciences) {for short 'TGT (S.Sc)'} arbitrarily by a non-speaking order. She has claimed that on the basis of assessment made by the respondents she was allotted 69 marks whereas candidates securing 66 marks have been appointed.

2. The applicant had offered ^{her} ~~his~~ candidature in response to an advertisement dated 6.6.1994 for recruitment of teachers including TGT (S.Sc) in the grade of Rs. 1400-2600. In accordance with the amended recruitment rules dated 17.9.1993 the eligibility condition is Bachelor's degree in Arts, Science or

6

:: 2 ::

Social Sciences, etc. with a minimum of 45% marks along with degree in Teacher Training from a recognised university. The applicant has passed B.Com (Hons.) with 52% marks and also M.Com with 43% marks from Delhi University. She has studied Economics (3 papers) as part of Business Studies in B.Com (Hons) making two elective subjects and English (Elective) as a subsidiary as third subject from Delhi University. According to the applicant candidates securing fewer ^h marks and having only B.Com (Pass) degree namely Ms.Anju Sapra, Ms.Shalini Gogia and Ms.Vandana have been appointed as TGT (S.Sc). The applicant has sought quashing the decision of the respondents and directing them to appoint her as TGT (S.Sc) with effect from the date other candidates with lower ~~in~~ ^h rank in the merit list have been appointed with all consequential benefits.

3. The respondents have stated in their counter that no candidate having B.Com.(Hons.) was considered for appointment during 1994 recruitment. According to them the amended recruitment rules dated 17.9.1993 require that candidate applying for the post of TGT (S.Sc) must have passed a Bachelor's Degree (Hons/Pass) from a recognised university having secured 45% marks in aggregate in two school subjects of which at least one out of the following should have been at the elective level :-

^h "Main subjects for S.Sc.-
History/Pol.Science/ Economics/ Business
studies/ Sociology/ Geography/ Psychology".

:: 3 ::

According to the respondents B.Com.(Hons) students who specialise in Commerce subject do not have full background of S.Sc. subjects taught at secondary level. The eligibility of a candidate applying for the post of TGT (S.Sc.) is not determined according to graduation degrees (Pass or Hons) obtained but according to the subjects studied by them at graduation level as per requirements of the recruitment rules. All those candidates who are B.Com. (Pass) were considered for appointment for the posts of TGT (S.Sc.) as they fulfilled the conditions prescribed in the recruitment rules.

4. We have heard the learned counsel of the applicant and examined the record available on file. As per notification dated 17.9.1993 (Annexure-A-3) the relevant schedule has been amended as follows:-

Col.No.8: A Bachelor's Degree (Honours/ Pass) or equivalent from a recognised University having secured 45% marks in aggregate, in two school subjects of which atleast one out of the following should have been at the elective level:-

1. English, 2.Mathematics, 3.Natural/ Physical Science, 4.Social Science.

Note: Main subjects for Natural/ Physical Sciences: Physics/ Chemistry/ Biology/ Computer Sciences/ Botany/ Zoology/ Dairy Farming/ Horticulture/ Veterinary Sciences/ Agriculture.

Social Science: History/ Pol.Science/ Economics/ Business Studies/ Sociology/ Geography/ Psychology."

The scheme of examination and detailed courses of reading for B.Com (Pass) examination are as follows :-

Part.I Examination 1989

Paper I -Business Organisation and Management
Paper II-Financial Accounting

Paper III-Economics Paper-1 (Economics System and Micro Economic Theory)

Paper IV- Humanities Group- One of the MIL

Part.II Examination 1990

Paper V- Business Laws

Paper VI- Office Management and Secretarial Practice

Paper VII -Economics Paper-II (Micro Economics Analysis and Policy)

Paper VIII - Humanities Group - English

Part.III Examination 1991

Paper IX-Costing and Statistics

Paper X- Auditing Income Tax and Sales Tax

Paper XI- Economics Paper-III (Economic Development & planning in India)

Paper XII- Humanities Group - Elective Paper

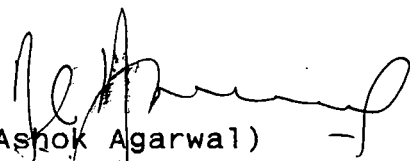
From the scheme of examination and detailed courses of reading for B.Com (Hons.) examination, we are convinced that the applicant has studied Economics (3 papers) as part of Business studies in B.Com (Hons.) making two elective subjects and English (elective) as a subsidiary as third subject. Comparing the respective schemes for B.Com(Hons.) and B.Com(pass) examinations, we find that the applicant is as much qualified as B.Com (Pass) candidates on the basis of eligibility conditions prescribed for TGT (S.Sc.). When candidates having B.Com (pass) degree and obtaining fewer marks than the applicant in the recruitment in question for TGT (S.Sc.) have been considered for appointment for the post of TGT (S.Sc.), we do not find any disqualification in the applicant ^{being B.Com (Hons.), etc.} for recruitment to the post of TGT (S.Sc.) on the basis of performance in the recruitment conducted in 1994.

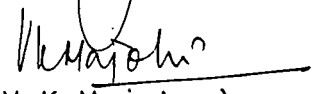
5. In the ultimate analysis, we find that the applicant is eligible for appointment as TGT (S.Sc.) and direct the respondents to consider her for appointment as TGT (S.Sc.) with effect from the date other

9

:: 5 ::

candidates lower in rank in the merit list prepared by the respondents have been appointed. She will, however, not be eligible for any back wages etc. The OA is accordingly allowed. No order as to costs.


(Ashok Agarwal)
Chairman


(V.K. Majotra)
Member (Admnv)

rkv