

(33)

Central Administrative Tribunal
Principal Bench

O.A. No. 396 of 1997

New Delhi, dated this the ¹²16 January, 2001

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

Shri Satyavir Singh,
S/o Shri Pitam Singh,
R/o Vill. Ladhvary,
P.O. Sarurpur Kalan,
Dist. Meerut (U.P.) .. Applicant

(By Advocate: Shri G.D. Gupta)

Versus

1. Govt. of N.C.T. of Delhi through
the Secretary,
Dept. of Education,
5, Sham Nath Marg,
Delhi-110054.
2. The Director of Education,
Old Secretariat,
Delhi-110054.
3. The Dy. Director of Education,
Dist. East,
Rani Garden,
Geeta Colony,
Delhi. .. Respondents

(By Advocate: Shri Rajinder Pandita)

ORDER

S.R. ADIGE. VC (A)

Applicant impugns respondents' order dated 5.6.95 (Annexure A) terminating his services under Rule 5(1) of the CCS (Temp. Services) Rules, 1965. He seeks reinstatement with consequential benefits.

2. Respondents issued advertisement (Annexure B) inviting applications for post of TGT/PGT in different subjects from candidates registered with Employment Exchange in NCT of Delhi as on 31.5.94.

~

34

3. Pursuant to the aforesaid advertisement, applicant applied for the post of TGT (Maths) and was provisionally selected for appointment vide respondents' order dated 4.8.94, and the Dy. Director, Education (Dist. East) who had been delegated the powers of appointing authority appointed him to the post of TGT (Maths). The aforesaid 68 marks were awarded to applicant on the basis of a marking scheme approved by respondents pursuant to Cabinet Resolution No. 93 dated 25.7.94 whereby posts of teachers were to be filled up on the basis of merit by awarding marks to the candidates on the basis of their academic performance at different levels namely 10th Standard; 11th and 12th Standard; Graduation; B.Ed.; and Post Graduation; and 5 additional marks were given for having obtained Honours degree; for having taken English as an elective subject at B.A./ B.Sc. level and for having obtained M.Phil..

4. Applicant is an M.Sc. and M.Phil in Physics. Respondents gave him 10 additional marks for his having obtained M.Sc. and M.Phil and on that basis appointed him as his total came to 68 marks, but later when it was revealed that he was an M.Sc. and M.Phil in Physics, ~~which~~ he had applied for the post of TGT (Maths), terminated his services by giving him one month's notice vide impugned order dated 5.6.95 because his total marks now came to 58 marks and the last candidate considered for

~

7

appointment as TGT (Maths) in general category had secured 65 marks, corresponding to date of birth 9.5.69.

5. Applicant challenged the aforesaid termination order dated 5.9.95 in O.A. No. 1184/95. That O.A. was disposed of with the consent of both parties by order dated 15.7.96 (Annexure K) with a direction to respondents that in the event applicant made an self-contained representation to respondents within one week from the date of receipt of a copy of the order, respondents would consider appointing him as TGT (Natural Science) within one month from the date of receipt of the representation by means of a detailed, speaking and reasoned order in accordance with law under intimation to applicant. Liberty was given to applicant that if any grievance still survived, he could agitate the same in accordance with law, if so advised.

6. Pursuant to the above, applicant submitted a representation for appointment as TGT (Natural Science) which was received by respondents on 6.8.96. The same was considered by respondents vide order dated 4.9.96 (Annexure M). In that order it was stated that as per approved marking scheme, applicant had secured 68 marks, but the last candidate considered for appointment in TGT (Nat. Science) general category against the vacancies notified in May, 1994 had also secured 68 marks corresponding to Date of Birth 29.5.67, but as applicant's Date of Birth was 10.1.68 he had secured

~

32

lower merit position, because as per policy candidates with same marks were serialised according to date of birth, with those older in age being placed above those who were younger. Hence applicant's claim for being appointed as TGT (Nat. Science) against the vacancies advertised in May, 1994 was rejected by aforesaid order dated 4.9.96.

7. Applicant has now challenged the original termination order, which he had earlier challenged in O.A. No. 1184/95.

8. We have heard applicant's counsel Shri G.D.Gupta and respondents' counsel Shri Pandita.

9. Shri Gupta has argued that there was nothing in the approved marking scheme contained in Resolution dated 25.7.94, or indeed in the advertisement issued for the post of TGT/PGT to indicate that the five additional marks for obtaining Postgraduation/M.Phil were to be added only in those cases where the candidates was to teach that subject and not in other cases. Hence he contended that applicant could not be denied the 10 additional marks for postgraduation in Physics and M.Phil in Physics merely because he would be teaching Maths and not Physics. In this connection he vehemently argued that we should summon the concerned files from the department to bear on this contention that in the marking scheme as originally envisaged, there was no mention that the additional marks should only be in the teaching subject.

~

10. We have considered these contentions carefully.

11. Our attention has been invited to a subsequent note submitted to the Cabinet for modification in the marking scheme adopted for recruitment of teachers in the Directorate of Education approved by the Cabinet vide Resolution No. 93 dated 25.7.94 a copy of which has been taken on record. That note appears to have been submitted some time in 1996 and contains clarifications/ amendments in the aforesaid marking scheme, one of which is that marks for postgraduation/M.Phil may be given only to those who have done the same in the relevant teaching subject to which the candidate had applied. Shri Gupta has contended that these clarifications/ modifications issued in 1996 would not apply to recruitments made pursuant to an advertisement issued in May, 1994.

12. There may have been some relevance in this argument, if applicant could have established that in other cases, the five additional marks have been given for completion of Postgraduation/M.Phil, regardless of the teaching subject. No such instance has been cited before us. The objective of giving five additional marks each for Postgraduation/M.Phil clearly has to be viewed not so much as an incentive to candidates to acquire these qualifications but as a means by which to impart better education to the students. Thus a candidate who had applied for the

~

post of TGT (Maths) would be given five additional marks if he had completed Postgraduation and M.Phil in Maths as that would help him to teach Maths to the students in a better manner. If the additional marks were not confined to the teaching subject, a candidate who had applied for the post of TGT (Maths) would secure five additional marks each if he had done postgraduation in say Chemistry or Biology, which would not have been the intention of the framers of the marking scheme, as that may not have imparted better quality of teaching in maths to the students. Applicant has cited the instance of candidates who have been allotted five bonus marks for passing English as an elective subject at B.A./B.Sc. level, but this if anything bears out respondents' contention that the objective of imparting better education to the students was the primary factor in awarding these five additional marks, and it is because students in increasing numbers were opting for English Medium at secondary/higher secondary levels that the marking scheme gave consideration to this requirement.

13. Viewed in this light, it is not unreasonable to proceed on the basis that the contents of the Cabinet note of 1996 referred to above, merely made explicit what was implicit in the Cabinet Resolution of 25.7.94 that the additional five marks each for obtaining Honours Degree and

~

M.Phil would be added only where the same was obtained in the teaching subject and not otherwise.

14. In this connection we are informed that applicant has subsequently been appointed as TGT in 1998.

15. In the light of the above, we find no good reasons to warrant interference in this O.A. which is dismissed. No costs.

A. Vedavalli
(Dr. A. Vedavalli)
Member (J)

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

'gk'