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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

OA-60/97

New Delhi this the 12th day of February, 1997.

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)  
Hon'ble Sh. S.P. Biswas, Member(A)

Ms. Suman Sehgal,  
D/o Shri Khem Chand Sehgal,  
R/o A-196, Prashant Vihar,  
New Delhi-85. .... Applicant

(through Shri Ajesh Luthra, advocate)

versus

1. The Govt. of N.C.T. of Delhi,  
through the Secretary (Education),  
Old Secretariate,  
Delhi-54.
2. The Director,  
Directorate of Education,  
Old Secretariate,  
Govt. of N.C.T. of Delhi,  
Delhi-54. .... Respondents

(through Shri Rajinder Pandita, advocate)

ORDER(ORAL)

delivered by Hon'ble Dr. Jose P. Verghese, V.C.(J)

This is an original application filed on a short question whether candidature of the applicant for T.G.T. (Social Science) was rejected wrongly by the administration on the basis of the educational qualification obtained by her. The applicant submits that according to their own Scheme she has obtained 67% which was admittedly the cut off marks in matriculation examination but wrongly it has been stated in reply to the representation of the applicant that she obtained only 65%. Notice was issued for a clarification on this matter and a short reply has been filed. The respondents have raised three issues.

With respect to the calculation of the marks at page-5 of the reply it is shown that the calculation presented by the applicant and by the respondents, differ only with respect to the percentage of the marks obtained under the marking Scheme, adopted by the respondents. According to the applicant, she has obtained 8 marks for her class X (Matric) Examination, under the Marking Scheme since she is in the second category, namely, the category of "60% and below" while the respondents reply shows that she has obtained only 44.4%, and gave 6 marks as per the marking Scheme for the same degree.

We have perused the records of the case carefully. Page-23 of the paperbook, namely, Annexure A-6 is the mark list and Annexure A-1 is the certificate issued by the Central Board of Secondary Education by which the candidate has been declared to have passed the 10th standard. According to the respondents Annexure A-6 shows the maximum marks as 705 and the total marks obtained as 312 and there were 5 subjects referred to in the mark list. Obviously they divided the total marks obtained by 5, and arrived at the percentage as 44.4. and included the applicant only in the 1st category, i.e. "50% and below", under the Marking Scheme, instead of 2nd. The contention of the applicant on the other hand was that the applicant being a private candidate, the average cannot be obtained by dividing the total marks by 5 since she has passed under the category called "matric passed without mathematics". Her

statement can be substantiated by Annexure A-1 the formal pass certificate issued in this regard, which shows that the applicant has passed in the Delhi Secondary School Examination of 1983 with four subjects and she has been declared as "matric passed" by that certificate. There is considerable force in the contention of the learned counsel for the applicant. It is obvious that the calculation of the marks obtained in the matric examination seems to be a bona fide error when the respondents divided the total marks by 5 instead of 4 for which she was declared passed by Central Board of Secondary Education.

The respondents also raised the plea of limitation stating that the selection was of the year 1994 and the representation was given on 14.11.94. The application filed on 7.1.1997 is therefore time-barred. A reply to the representation was given by the respondents to the applicant stating that she obtained only 65 marks under the marking Scheme instead of 67 which was cut off marks. The said reply is dated 7.2.1995. It is submitted on behalf of the applicant that she has no means to know why her candidature was rejected until reply to her representation came. Thereafter, the applicant made another representation and was rejected only on 20.12.1996 and therefore the application is within time under Section 21 of the Administrative Tribunals Act, 1985. The respondents have relied upon the decision in case of S.S. Rathore Vs. State of M.P. reported in AIR 1990 SC 10 to press the issue of limitation that

repeated representations does not give a cause of action to the applicant. In view of the findings recorded herein above, especially the relevant representation is the one she made after knowing why she was not selected, this decision is not applicable to the present case.


The non-selection of the applicant for the post of TGT ( Social Science) and rejection of her candidature is therefore not based on objective facts. The rejection was solely on the ground that under the marking Scheme, the applicant has obtained 65% marks instead of 67%, which is the mandatory minimum. No other ground is shown before us for rejection of applicant's candidature. The stated reason, on the other hand is wholly unsustainable.

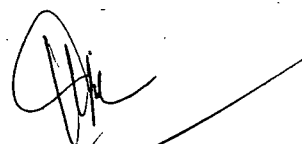
It was not the case of the respondents that the rejection of candidature was based on different grounds and one of those has turned out to be extraneous or otherwise unsustainable. In this case, the sole ground of the respondents for rejection of applicant's candidature was not based on objective facts, we have no hesitation to hold that non-selection of the applicant was not based on objective considerations.

In view of the matter, we are inclined to issue the following directions:-

The applicant shall be considered as if she obtained 67% marks which is cut off marks in T.G.T. (Social Science) and therefore the candidature of the applicant be treated afresh and if she is eligible on all other scores, the respondents shall pass appropriate orders within two months giving effect to those orders from the date on which other candidates, similarly placed, have been declared/selected and with all consequential benefits from the said date.

With the above directions, the O.A. is disposed of finally. No order as to costs.

  
(S.P. Biswas)  
Member(A)

  
(Dr. Jose P. Verghese)  
Vice-Chairman(J)

/vv/