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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No.2586/94

New Delhi: June 7th, 1995.

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

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J).

Mrs. Hema Gandhi (Bhutani),
w/o Sh. Lalit Gandhi,
r/o E-2/92, Janakpuri,
New Delhi.

.....Applicant.

By Advocate Shri M.M.Sudan

Versus

1. Lt. Governor,
Govt. of National Capital Territory of Delhi,
Raj Niwas,
Delhi.

2. Director of Education,
Govt. of NCT of Delhi,
old Secretariat,
Delhi.

3. Dy. Director of Education (Distt. West)
Govt. of National Capital Territory of
Delhi,
New Moti Nagar,
New Delhi-110015.

.....Respondents.

By Advocate Ms. Jyotsna Kaushik

JUDGMENT

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

The applicant Mrs. Hema Gandhi (Bhutani) is aggrieved by her non-appointment as a Domestic Science Teacher (Scale Rs.1400-2600) inspite of the offer of appointment dated 5.8.94 (Annexure-A1).

2. The Directorate of Education, Delhi Administration issued an advertisement (Annexure-A2) in the newspaper inviting applications from candidates registered with the Employment Exchanges within Delhi as on 31.5.94 for posts of teachers in various disciplines to be filled upon regular basis. The last date for receipt of applications was fixed as 19.6.94. Desirous persons were asked to contact the

respective establishments/branches of the Directorate of Education between 6th to 19th June, 1994 for submission of applications in the prescribed format. Subsequently in a continued advertisement, again in the leading newspapers on 3.6.94 the essential qualifications as per recruitment rules were specified for respective categories of posts including that of Domestic Science Teacher. Through this advertisement, the applicants were also advised to see the Notice Board placed on the counters displaying the copy of the Recruitment Rules for each post. The recruitment rules for the post of Domestic Science Teachers (Annexure-R1) prescribe the following educational and other qualifications for direct recruits:-

- a) Essential: Graduate from a recognised University with Diploma in Home Science from a recognised Institute.
- b) B.Sc (Home Science) with Degree/Diploma in Training /Education.

3. The applicant submitted an application for recruitment for the post of Domestic Science Teacher on 16.6.94. According to her, at that point of time, she held an B.Sc (Hons) Degree with 66% marks secured from Delhi University in 1991 and an M.Sc Degree (Home Science) with 73% marks secured from Nagpur University in 1993. She states that she had appeared in B.Ed. examination in April, 1994 and in her application against B.Ed. qualification, she had mentioned 'result awaited'. It appears that a provisional certificate was issued to her on 17.6.94 of having passed the B.Ed. examination. On 27.6.94, the applicant was called with original certificates for verification, and she also produced B.Ed. marks sheet and the said fact was entered in the application

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at the time of verification which has not been denied by the respondents. After the selection, the applicant received the offer of appointment by Memo dated 5.8.94 (Annexure-A1) and was asked to report personally by 19.8.94. She accepted the offer and reported to the office of respondent No.3 on 11.8.94. On 17.8.94 she was directed to report for medical examination and was duly examined on 24.8.94.

4. Meanwhile, it appears that on a written representation from one of the applicants, the case of the applicant was reopened and according to the respondents, on examination it was found that at the time of submission of the application, the applicant was registered with the Employment Exchange only on the basis of her qualification as M.Sc (Home Science) and other qualifications, but having not passed B.Ed examination as on 31.5.94. The respondents allege that the applicant managed to get her registration number changed on the basis of B.Ed as late on 5.9.95 (Annexure-A4). They contend that even the provisional certificate for B.Ed was issued by the concerned college only on 17.6.94. Having found all these irregularities and omission and the fact that she was not B.Ed. as on 31.5.94, which was ^{the} cut off date, her candidature for the post of Domestic Science Teacher was cancelled and she was accordingly informed vide letter dated 8.12.94 (Annexure-R4).

5. The short question that remains for adjudication is whether the cut off date for possession of the B.Ed qualification for eligibility for the post of Domestic Science Teacher should be 31.5.94 as contended by the respondents on the basis

of which the applicant's candidature has been rejected on 19.6.94 which was the last date of receipt of the applications as contended by the applicant's counsel Shri Sudan.

6. Prima facie there is nothing in the respondents' earlier notification published on 31.5.94 which would lead one to conclude that the applicant has to possess a B.Ed degree as on that date. The advertisement merely states that the applications were invited from the candidates registered with the Employment Exchanges within Delhi as on 31.5.94 for the post of Domestic Science Teachers, and no application form shall be entertained after expiry of last date of the receipt of the same i.e. 19.6.94. Similarly the subsequent advertisement dated 3.6.94 also does not specifically state that candidates for the post of Domestic Science Teachers should possess B.Ed degree as on 31.5.94. It merely states that in continuation of the Directorate of Education's earlier advertisement dated 31.5.94, essential qualification for the post of Domestic Science Teacher is Graduate with Diploma in Home Science or B.Sc. in Home Science with degree/diploma in Education.

7. Respondents' counsel Mrs. J. Kaushik has emphasised the fact that these vacancies have to be filled up through persons registered with the Employment Exchanges, and as the cut off date for registration was fixed as 31.5.94, that was the date on which the prospective candidates had to possess the prescribed qualifications. Applicant's counsel Shri Sudan has, however, stated that

the employer was not bound to appoint only persons sponsored by the Employment Exchanges and was only obliged to notify the vacancies. In this connection, he has relied upon the Hon'ble Supreme Court's ruling in UOI Vs. Har Gopal & others - 1987(4) ATC 51. This judgment, however, holds that the Govt. instructions enjoining the employers to fill up the notified vacancies by the candidates sponsored by the Employment Exchanges are mandatory for the Govt. departments alone; directory for statutory bodies and not applicable to Private Sector/Establishments. In the present case, admittedly the applicant was not being sponsored by the Employment Exchange and only had to be registered there as on 31.5.94.

8. The second argument advanced by applicant's counsel Shri Sudan is that in the absence of any last date mentioned in the advertisement for possession of the prescribed qualification, it is the last date for submission of the application form, which in the present case was 19.6.94, which would prevail, and as the applicant had secured B.Ed. degree qualification on 17.6.94, her appointment could not be refused. In this connection, he has invited our attention to the Hon'ble Supreme Court's ruling in Smt. Rekha Chaturvedi Vs. University of Rajasthan-1993(25) ATC 234, wherein it has been held that in the absence of a fixed date indicated in the advertisement/notification inviting applications with reference to which the requisite qualifications should be judged, the only certain date for scrutiny of the qualifications will be the last date for making the applications.

9. In the instant case, admittedly there was no fixed date indicated in the advertisement/

notification with reference to which the requisite qualifications had to be judged.

10. In this connection, applicant's counsel Shri Sudan has also invited our attention to Tribunal's decision dated 19.1.94 in O.A.No.2216/93 Smt. Reena Chadha Vs. L.G.Delhi and connected case. In that case, an advertisement was issued by the Delhi Administration on 11.2.93 inviting applications to fill up the post of Asstt. Teachers; the requirement was that the candidates who had valid registration with the Employment Exchanges in Delhi and who had two years JBT/ETT or equivalent from a recognised University alone could apply. A corrigendum was issued on 2.3.93 by the Controller of Examination modifying the directions of the earlier advertisement and stating therein that the candidates who had appeared in JBT/ETT examination in April/May of that year, could also apply. The applicants were to appear in the JBT/ETT examinations which were scheduled to be held in April/May, 1993. They applied and were allowed to appear in the examination. Results were declared and the applicants were found in the merit list. 750 candidates were appointed as Asstt. Teachers and the petitioners' merit in that list was much above 750 and the persons below them in the merit list were issued appointment letters. Those persons appeared to have denied appointment letters because they were not registered with the Employment Exchange. The Tribunal by its judgment dated 19.1.94 rejected the stand taken by the respondents that they had not given appointments to the petitioners as

they were not duly registered with the Employment Exchanges on the date of making applications. The Tribunal held that if the petitioners were otherwise qualified and there was no legal impediment in issuing the appointment letters, the authority concerned should issue them letters of appointment within 10 days, after assuming that the petitioners were duly registered with the Employment Exchange on the date of making application. The Tribunal, inter alia, noted that mere registration with the Employment Exchange cannot be considered to be a vital qualification and there was a distinction between registration with the Employment Exchange and sponsorship by such an Employment Exchange.

11. In the present case also, all that was required was that the applicant should be registered with the Employment Exchange, and not that she should be sponsored by the Employment Exchange. In the absence of any fixed date indicated in the advertisement inviting applications with reference to which the requisite qualifications should be judged and in the background of the Hon'ble Supreme Court's ruling in Smt. Rekha Chaturvedi's case (Supra), the date for scrutiny of qualifications of the applicant would be the last date for making the application i.e. 19.6.94, and admittedly, the applicant had secured B.Ed. qualification on 17.6.94.

12. Under the circumstances, this O.A. succeeds and is allowed.

13. The respondents are directed to appoint the applicant as Domestic Science Teacher as per offer of appointment dated 5.8.94 (Annexure-A1),

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within one month from the date of receipt of a copy
of this judgment. No costs.

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)
MEMBER (J)

S.R. Adige
(S.R. ADIGE)
MEMBER (A)

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