

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 1721/94

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New Delhi this the 30th day of July 1999

Hon'ble Mr. Justice V. Rajagopala Reddy, Vice-Chairman (J)
Hon'ble Mr. R.K. Ahooja, Member(A)

1. Jai Mohan Vats
S/o Shri Ram Karan Vats
R/o WZ-746/7,
Vill. & P.O. Palam,
New Delhi-45.

2. Mrs. Kamla Solanki
W/o Shri Sukhbir Singh Solanki
R/o WZ-288,
Vill. & P.O. Palam,
Delhi-45.

...Applicant

(By Advocate: Shri G.S. Vashisht)

Versus

1. Govt. of NCT of Delhi
through Chief Secretary,
5, Sham Nath Marg,
Delhi.

2. Directorate of Education
Old Secretariat,
Govt. of NCT of Delhi.
Delhi.

...Respondents

(By Advocate: Shri Vijay Pandita)

ORDER (Oral)

By Hon'ble Mr. R.K. Ahooja, Member (A)

The applicant No.2 assails the selection made by the respondents to the post of Physical Education Teacher in pursuance to the advertisement dated 31.5.94. The respondents had issued an advertisement (at Annexure A-I) calling for applications from candidates registered with Employment Exchange in NCT of Delhi for the posts of teachers of various categories including the post of Physical Education Teacher. According to the applicant the respondents did not specify the number of vacancies. Further according to the applicant the selections made by the applicants advertisement was also

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contrary to the rules and past practice. The applicants, therefore, submits that the selections made should be quashed and the respondents be directed to make fresh selections in accordance with law. The allegations of the applicants are denied by the respondents.

2. We have heard the counsel. Learned counsel for the applicant has drawn our attention to the selection prescribed in the Recruitment Rules for the post of Physical Education Teachers at (Annexure-20) which reads as follows:

Method of recruitment, whether by direct rectt.	By direct recruit-
or by promotion or by deputation/transfer and percentage of the vacancies to be filled by various methods.	ment (Note: 25% : 100% will be filled in from outstanding sportsmen failing which 100% posts may be filled in by direct recruit- ment).

3. Learned counsel submits that only upto 25% posts are to be filled up by Sportsmen and there is no other reservation. Even so, the respondents have gone ahead and made appointments by reservation in excess of 25% and have even selected two persons under the Physically Handicapped quota. He argues that appointment of Physically Handicapped persons for the post of Physical Education Teachers is totally illogical and against the requirement of the post.

4. It is further contended by the learned counsel that the respondents have resorted to making appointments purely on the basis of the academic record of the applicants. He submits

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that not only this is contrary to the past practice wherein the method of selection consisted both of written examination as well as interviews but also carries inherent contradictions inasmuch as persons with higher marks in academic course would score over those who had scored higher marks in the professional Physical Education course.

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5. We have carefully considered the aforementioned submissions. In so far as the matter of selection is concerned, it is open to the respondents, unless the rules specify otherwise to choose any method of selection so long as it is uniformly applied and is not patently irrational. There is ~~has~~ no allegation that the applicants were entitled to be chosen on the basis of their academic record or that the respondents have not applied this criteria uniformly. The Supreme Court has held in State of Andhra Pradesh & Anr. Vs. Sadanandam & Ors. AIR 1989 SC 2060 that the mode of recruitment and the category from which the recruitment to a service should be made are all matters which are exclusively within the domain of the executive and it is not for judicial bodies to sit in judgement over the wisdom of the executive in choosing the mode of recruitment. In view of this position, we do not find any merit in the contention of the learned counsel for the applicant that the respondents should have adopted the method of holding an examination and conducting interviews instead of deciding the selections on the basis of marks obtained by the candidates in their school and college examinations as well as the professional course for Physical Education Teacher.

6. The other main contention is that the respondents have made selections in excess of the 25% quota. We find here that the 25% reservation in the rules is provided only in

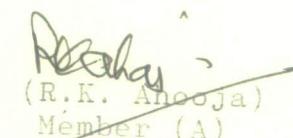
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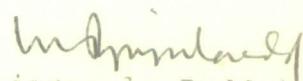
regard to outstanding Sportsmen. There is no requirement that reservations as in the case of SC/ST need to be specified in the Recruitment Rules as general instructions in regard to reservations apply in case of all recruitments made to public offices unless specific exemptions are available. The reservations made in selections in respect of SC/ST candidates are in accordance with those general instructions. The respondents have also pointed out that the instructions in regard to physically handicapped have also been issued by the Government. We cannot, therefore, find fault with the respondents in making appointments on the basis of those instructions. In so far as the point regarding the unsuitability of physically handicapped persons so selected is concerned, we are unable to make any comments because the handicap of such persons need not necessarily to make them incapable of discharging their duties as Physical Education Teachers.

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7. We also note that the challenge to the selections have been made by the applicants after having participated in the selection process and when they were not selected that they have challenged the method of selection.

8. In the light of above, finding no merit in the OA, this OA is dismissed. No costs.


(R.K. Anoja)
Member (A)
cc.


(V. Rajagopala Reddy)
Vice-Chairman (J)