

(JY)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.2467/2000

Friday, this the 12th day of April, 2002

Hon'ble Mrs. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Mr. S.A.T. Rizvi, Member (A)

Shri Bhaskar
s/o Sh. Jai Krishan Prasad
R/O C-6/173-A, Keshav Puram
Delhi-35

Office Address:

Assistant Teacher
Sarvodaya Bal Vidyalaya
Anand Vas, Delhi-34

..Applicant
(By Advocate: Shri K.P.Gupta)

Versus

1. Govt. of NCT of Delhi
through
The Secretary (Education)
Old Secretariat, Delhi
2. The Director of Education
Directorate of Education,
Old Secretariat,
Delhi.

..Respondents
(By Advocate: Shri Vijay Pandita)

O R D E R (ORAL)

Hon'ble Shri S.A.T. Rizvi, M (A):-

Heard both the learned counsel at length.

2. When this case came before us on 10.8.2001, we had, after hearing the learned counsel, dictated a judgement in open court in favour of the applicant on the basis that in promotion cases the educational qualification as laid down for direct recruits need not to be fulfilled. A little after the dictation was over, the learned counsel appearing on behalf of the respondents came up and showed to us the relevant recruitment rules which provides that even in promotion cases the candidates will have to possess the

(2)

educational qualification required in direct recruitment cases. Accordingly, we listed this case for "for being spoken to" on 17.8.2001. Thereafter, the matter has again come up before us for detailed hearing only today.

3. Similar cases have been decided by this very Tribunal on 7.11.1997 in OA-2113/1996 and on 1.5.2000 in OA-2227/96. Conflicting judgements have been rendered in the aforesaid cases. The former, relating to an applicant, who is placed similarly as the present applicant, was rejected by holding that the degree of B.Com (Hons.) possessed by that applicant was not the right qualification for the post of TGT (Social Science). The right qualification was held to be a B.Com (Pass). In the latter case, however, taking a contrary view, the Tribunal held that B.Com (Hons.) and B.Com (Pass) were on par and even those who possess B.Com (Hons.) degree fulfil the requisite qualification. This latter judgement was taken to the High Court by the respondents, whereas before the Tribunal in the same case none had appeared on behalf of the respondents. The aforesaid judgement of the High Court has not been taken in appeal to the Hon'ble Supreme Court and has thus become final. Presumably, in view of this, the respondents have proceeded to implement the order passed by this Tribunal in OA-2227/96 and upheld by the High Court. A perusal of the judgement rendered by the High Court (A-2) shows that that court had also concluded that the degrees of B.Com (Pass) and B.Com (Hons.) were on par for purposes of promotion to the post of TGT (Social Science).)

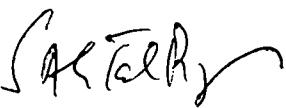
An

(Jb)

(3)

4. When the respondents failed to render a decision in the case of the present applicant, he filed a representation in the matter on 7.9.1999 which has been followed by several representations, the last of which is dated 10.10.1999. There has been no response from the respondents to any of these. In these circumstances and having regard to the observations we have already made in the previous paragraph, we find that it will in order and just to dispose of the present OA with a direction to the respondents to consider the aforesaid representations and, in the event of an adverse decision being taken, pass a detailed and a speaking order expeditiously and in any event within a period of two weeks from the date of receipt of a copy of this order. The result will be communicated to the applicant within the same period of time.

5. The present OA is disposed of in the aforesated terms. No costs.


(S.A.T. Rizvi)

Member (A)


(Mrs. Lakshmi Swaminathan)
Vice Chairman (J)

/sunil/