

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

OA NO. 2634/2000

This the 9th day of July, 2003

HON'BLE SH. V.K. MAJOTRA, MEMBER (A)  
HON'BLE SH. KULDIP SINGH, MEMBER (J)

Sh. Ghanshyam Arya  
S/o Sh. Hari Ram Patwa  
R/o Arya Samaj (anarkali)  
Mandir Marg.

(By Advocate: Sh. A.K. Behera)

Versus

1. Govt. of NCT  
Through Chief Secretary  
Sham Nath Marg,  
New Delhi-110054.
2. Director of Education  
Old Secretariat Building  
Delhi-110054.
3. Dy. Director of Education  
Distt. Central  
Bela Road Darya Ganj  
New Delhi.
4. Delhi Subordinate Services Selection Board  
Through Chairman  
Third Floor UTCS Building  
Behind Karkadooma Courts Complex  
Institutional Area, Bishwas Nagar,  
New Delhi.  
(Through its Chairman)
5. Principal  
Government Boys Senior Secondary School  
Zeenat Mehal, Kamla Market,  
Delhi.

(By Advocate: Sh. George Parackin)

ORDER

By Sh. Kuldip Singh, Member (J)

Applicant had been appointed as a Hindi Language Teacher in pursuance of an advertisement issued by respondents in March 1999. Applicant claim that he possessed the requisite qualification including the qualification of Bachelor of Education from Hindi Sahitya Sammelan, Allahabad which is called as 'Shiksha Visharad' and the same is equivalent to the qualification of the Bachelor of Education.

h

2. Applicant after due selection performed the duties of TGT (Hindi)/Language Teacher (Hindi) to the satisfaction of the superiors. However, the applicant was issued a show cause notice to the effect that the degree of Bachelor of Education that of Shiksha Visharad being possessed by the applicant has not been recognised by the Central Hindi Directorate, Govt. of India, Ministry of Human Resource Development, Education Department. Applicant was called upon to show cause as to why his provisional appointment should not be terminated and order of appointment may be cancelled as he does not possess the prescribed qualification for the post of Language Teacher. Applicant submitted a reply to this vide Annexure-E. However, vide Annexure E-1 his appointment was cancelled and his services were terminated.

3. In order to assail this termination applicant submits that degree possessed by him is recognised as per law. The Central Board of Secondary Education vide their letter dated 17.5.88 had recognised the same. It is also recognised by Gujarat Educational Secondary Tribunal Ahmedabad. All these documents were submitted with the reply but the same was not considered, since the respondents were sitting with made up mind to terminate the services of the applicant. Applicant also submitted that the Health and Education Minister of Delhi Administration in an answer to the question of O.P. Babbar confirmed in Delhi Assembly that the degree of Shiksha Visharad is fully recognised. It is further submitted that the respondents had also accepted in their affidavit in Civil Writ Petition before Delhi High Court filed by one Sh. Pawan Kumar that the Visharad degree is equivalent to B.Ed (Hindi). The degree obtained by the applicant is also stated to be

K

recognised by Govt. of Andhra Pradesh. Thus, the applicant submitted that his services had been terminated in an arbitrary manner.

4. Respondents in their reply submitted that as per the qualifications prescribed for appointment of Language Teacher (Hindi) degree or diploma in teaching which is equivalent to B.Ed., if required. It is further submitted that though the selection was made by DSSSB but the nominated list of Language Teachers was sent to the department with a request to verify their testimonials. Since the applicant had submitted that he had passed Shiksha Visharad from Hindi Sahitya Sammelan in support of his qualification for degree/diploma teaching but the same is not recognised one and a complaint was received questioning the validity of this degree of Shiksha Visharad and since Shiksha Visharad is not recognised under the relevant provision of the NCTE Act 1993, so this degree of Shiksha Visharad is not valid for employment. As regards the recognition by C.B.S.E. authorities is concerned, it is submitted that the C.B.S.E. authorities have also clarified that they are not aware of the recognition of Shiksha Visharad vide their letter dated 14.3.2001. Respondents also denied that in case of another candidate the degree of Shiksha Visharad has been recognised by the department.

5. We have heard the learned counsel for the parties and gone through the record.

6. Learned counsel for applicant submitted that when show cause notice was issued to the applicant the applicant was called upon in reply to the only allegation that the degree of Shiksha Visharad is not recognised by Central Hindi Directorate of Ministry of Human Resource Development, Govt.

*Ku*

of India. As regards this aspect is concerned, the learned counsel for applicant referred to the document Annexure R-12 filed by the respondents themselves to show that the courses conducted by Sahitya Sammelan, Allahabad University are meant only to promote the knowledge of Hindi and the Central Hindi Directorate have no knowledge if the degree of Shiksha Visharad is recognised as equivalent to Bachelor of Education. Thus, the counsel for applicant submitted that even the respondents themselves are not sure if Central Hindi Directorate recognises the degree of Shiksha Visharad or not and that cannot be relied upon to say that degree of Shiksha Visharad is not equivalent to Bachelor of Education.

7. Counsel for respondents then referred to the order of termination of services wherein for the first time the respondents had stated that Shiksha Visharad degree of Sahitya Sammelan is not recognised by NCTE. Whereas no show cause opportunity was given to the applicant to give his explanation whether the degree is recognised by NCTE or not. In support of his contention counsel for applicant referred to a judgment of M.S.Gill vs. Union of India wherein it is that once the action is taken on a particular ground then the ultimate action taken cannot be validated for different reasons. Counsel for applicant submitted that in this case since show cause notice was issued only on the ground that the degree in question has not been recognised by Central Hindi Directorate whereas the ultimate order of termination of services is based on the degree not being recognised by NCTE, so neither this show cause notice can stand nor the termination order can stand and the same are liable to be quashed.

Kr

8. In reply to this counsel for respondents submitted that the degree of Shiksha Visharad being possessed by applicant is not recognised either by Central Hindi Directorate or by NCTE. Hence the applicant cannot be allowed to continue in the services. Since he does not possess the requisite qualification of Bachelor of Education and particularly when the qualification possessed by the applicant that is of Shiksha Visharad is not recognised as equivalent to Degree of Bachelor of Education. As regards the degree being recognised by CBSE is concerned, respondents had referred to a document showing that even the CBSE does not recognise the degree of Shiksha Visharad as per their letter dated 14.3.2001. Similarly the Akhil Bhartiya Hindi Shiksha Sangh also does not recognise the Shiksha Visharad degree as equivalent to B.Ed. degree.

9. We have considered the rival contentions of the parties and given our thoughtful consideration to the issue involved. The question is that whether the degree of Shiksha Visharad is recognised by competent authority as equivalent for the degree of education for the post in question. The advertisement issued for this purpose by the department had simply stated that one of the essential qualification is degree/diploma in teaching or Senior Anglo Vernacular certificate. The notification as annexed as Annexure R-1 also shows that though Sahitya Rattan of Hindi Sahitya Sammelan Prayag has been recognised as equivalent to the Graduation degree but the degree of Shiksha Visharad is not mentioned in the notification issued for notifying the recruitment rules for Hindi teachers. There is no dispute that the applicant possess a degree of Shiksha Visharad which according to the respondents is not recognised by the NCTE except that the documents filed by the applicant showing that degree has been

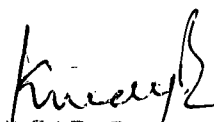
h

recognised by Andhra Pradesh Govt. but that will not give a recognition because there is no competent authority to recognise the degree issued by the Hindi Sahitya Sammelan, Allahabad. The contention of the respondents appears to be correct that the National Council for Teachers Education which is established under National Council for Teachers Education Act can be competent authority to recognise a particular degree whether it is equivalent to B.Ed. or not. Since the respondents had made out a case that degree of Shiksha Visharad is not recognised by NCTE, so the respondents are justified in terminating the services of the applicant.


10. As regards the contention raised by the counsel of the applicant that as per the judgment of Hon'ble Supreme Court in case of M.S.Gill vs. UOI, since the show cause notice was issued only to the extent that the degree is not recognised by Directorate of Central Hindi while terminating the services the department had taken a stand that degree is not recognised by NCTE. On this aspect we may mention that first of all, the same plea taken by the respondents in their counter affidavit and additional affidavit filed to the rejoinder to rebut the same. Besides that when OA was filed, petitioner was well aware that his services have been terminated on the stand by the department that his qualification is not recognised by NCTE. Petitioner has not challenged the same nor furnished any document to show that the qualification possessed by him is recognised by NCTE. However, as regards the fair opportunity granted to the applicant to rebut the allegations levelled against him to the show cause notice are concerned, we may mention that the applicant can be given an opportunity to make a representation against the order of termination to meet the allegations about the recognition of degree by the NCTE. However, as regards the termination of the services of

kn

the applicant is concerned, in the absence of any rejoinder. we find that the order of termination as passed by the respondents cannot be interfered with because while submitting the reply to the show cause notice, the applicant had submitted the documents to show as to how his degree is recognised by various other institutes so he could have very well submitted the documents to show that his degree is also recognised by NCTE. The judgment relied upon by the applicant is also not applicable to the present facts of the case. Since no prejudice has been caused to the applicant as the applicant while submitting the reply has not confined his reply only with regard to the recognition of his degree by Central Hindi Directorate rather he had submitted the reply to show the fact that there are the other institutes where the degree possesses by him is recognised and when the final order was passed after the show cause notice and the applicant had come to challenge the same then also the applicant had failed to prove that his degree is recognised by the NCTE. It would be futile to give any other opportunity to the applicant to make a representation against the allegation that his degree is not recognised by NCTE. So we do not find any reason to interfere with the orders passed by the respondents. OA has no merits and the same is dismissed.

  
( KULDIP SINGH )  
Member (J)

'sd'

  
( V.K. MAJOTRA )  
Member (A)