

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.No.1310/92

Date of decision: 05.02.1993.

Smt. Indu Bala

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Applicant

Versus

Lt.Governor and Ors.

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Respondents

Coram:-

The Hon`ble Mr. P.C. Jain, Member(A)

The Hon`ble Mr. J.P. Sharma, Member(J)

For the applicant : Sh.V.K.Malhotra,counsel

For the respondents : Ms. Mukta Gupta, proxy counsel
for Mrs. Avnish Ahlawat,
counsel

JUDGEMENT

(delivered by Hon`ble Sh. J.P. Sharma, Member(J)).

Smt. Indu Bala has been working as TGT in Directorate of Education, Delhi Administration and in pursuance to an advertisement dt. 7.7.1990 applied for the post of PGT (Political Science) where the eligibility condition was that the candidate should be Post-Graduate. The applicant appeared in M.A. final examination but the result was not declared on the date of application on 14.7.1990. She of course disclosed in the application that she appeared in M.A. final examination and the result is

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awaited. However, she was issued admission card with Roll No.308563 for the competitive examination and the result was declared on 20.09.1991 and she qualified in the recruitment test. The result was published and she was called to get her testimonials checked on 23.9.1991 but she was not given an appointment for which she made representation on 10.01.1992 and also subsequently when ultimately she was informed by the letter dt. 5.3.1992 (Annexure-I) that she does not fulfill the eligibility conditions and the same is reproduced as follows:-

"reference her letter dt. 10.1.1992 Ms. Indu bala is hereby informed that her Candidature for the post PGT(Pol.Sc.), can not be considered as she does not fulfill the eligibility conditions as per advertisement."

2. Being aggrieved by the aforesaid order, the present application has been filed under Section 19 of the Administrative Tribunals Act, 1985 and she has prayed for the grant of the following reliefs:-

"(i) It is most respectfully prayed that the respondents be directed to act honestly sincerely and judiciously to promote/appoint the applicant as Post Graduate teacher (Pol.Science) who had gone through whole of the selection process and ultimately was declared a successful candidate;

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(ii) the impugned order No.CE/308563/PGT-90/127 dt. 5.3.1992 may please be ordered to be quashed and declared nul and void;

(iii) any other relief which this Hon`ble Tribunal may deem fit in the circumstances of the case."

3. The case of the applicant is that as per advertisement to fill the form, it was laid down that the scrutiny will be done after written examination and all applicants will be allowed to appear purely on proivisional basis subject to their eligibility being verified after the written examination. Since she has been issued admission card with Roll No.308563 (Annexure-D) and she was allowed to take the competitive examination which she qualified and the result was published in the Times of India dated 20.9.1991 and further she was also informed to bring the original testimonials for checking up on 23.9.1991 (Annexure-F), now the respondents cannot withhold her appointment and in fact they are estopped and the further action of the respondents is arbitrary because certain other candidates who have been declared qualified have been allowed to join as is evident by the letter dt. 9.3.1992(Annexure-G) issued by the respondents to such candidates. The applicant since having passed the qualifying test should have been given the appointment letter. She has also invoked the doctrine of estoppel.

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4. The respondents contested the application and in their reply they stated that in pursuance of the advertisement of July, 1990 to fill up certain posts of PGT, clear instructions were laid down to the candidates regarding their eligibility conditions and it was clearly mentioned that the candidate must be Post-Graduate and B.Ed. on the date for calling of applications. The cut off date for qualification and age was 14.7.1990. The applicant did not possess the essential educational qualification of Post Graduation on that date. The applicant at the time of filling up the application form should have seen the eligibility condition as per Advertisement and Recruitment Rule to avoid disappointment at the later stage. The candidature of the applicant was provisional subject to the scrutiny of the applications after the written examination. The candidature of the applicant was purely on provisional bases till the declaration of the result subject to fulfilment of eligibility condition and verification of testimonials. While on scrutiny it was found that she was not qualified as Post-Graduate at the time when the application form was filled and so the applicant herself is to blame.

5. The applicant has also filed rejoinder to the above counter and the averments made in the original application have been reiterated.

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6. We have heard the learned counsel for both the parties at length and have gone through the records of the case. The advertisement for recruitment has also been annexed by the applicant as Annexure-A. The last date for the receipt of the application was July 14, 1990. For Post-Graduate Teachers, the qualification prescribed for eligibility has been laid down that the candidate should be having Post Graduate Degree from a recognised university in the respective subject with minimum 45 % marks at the graduation level and a Diploma/Degree in teaching/education from a recognised University. The proforma of the application form in Col.20 clearly lays down "Do you fulfill all educational and other qualifications required and are eligible as per the advertisement?(Write 'Y' or 'N')". During the course of argument, the learned counsel for the applicant has not substantiated that at the time of filling up the form as given in the proper place the word 'was' written. The only point urged by the learned counsel for the applicant is that in academic record in Col.21, it is mentioned that the applicant has appeared in M.A. final examination. Thus, the applicant herself has not given at the time of filling up the application form that she is Post-Graduate. Further in the instructions to fill the form in Item No.2 it is specially mentioned that before filling in the application form, the applicant should read the eligibility conditions for the recruitment carefully to see if they are eligible. They should apply only if they fulfil all the conditions to avoid disappointment at a later stage. The Directorate of Education, Delhi Administration will not undertake any scrutiny of the application before written

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examination and all applicants will be allowed to appear on purely provisional basis subject to their eligibility being verified after the written examination. Accordingly merely because an applicant has been allowed to appear at the written examination will not be considered as a ground for his being eligible for the recruitment. Thus, it is evident from the advertisement itself that on the last date of the application i.e. July 14, 1990 the applicant should have been holding a degree of Post Graduation in the Political Science and that is not the case here.

7. The learned counsel for the respondents has referred to a decision of Delhi High Court in CWP 199/92 Chater Sangharsh Samiti vs. Delhi Administration, a copy of which is annexed to the counter (Annexure R1) where the Hon'ble High Court has considered a similar matter and observed as follows:-

"Admittedly the petitioners were not qualified on the cut off date i.e. 20th January, 1992 for submitting the application. Learned counsel for the respondent submits that the Administration is holding fresh examination periodically because vacancies for the PGT and TGT occur time and again. We see no basis for the allegations that the date fixed for examination by the respondent is mala fide or arbitrary. Dismissed."

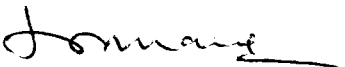
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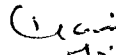
8. The learned counsel for the applicant has referred to a decision of Delhi High Court reported in 39(1989) Delhi Law Times P.330 decided on 28.8.1989. The facts of that case are totally different and the Hon'ble High Court in that case held that petitioners should have passed B.Ed. examination after the cut off date for eligibility i.e. 1.8.1988 but before the last date of applying for the posts (10.10.88) are entitled to the consequential reliefs. In the present case, the last date for the receipt of the application was 14.7.1990 on which date the result of the applicant of degree(P.S.) was not declared and as such this case does not help the applicant.

9. In view of the above discussion, we are of the considered view that the application is devoid of merit and is dismissed accordingly, leaving the parties to bear their own costs.


(J.P. Sharma)

Member(J)

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(P.C. Jain)

5/2/93
Member(A)