

(14)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O. A. No. 2296 of 1992

New Delhi, this the 12th day of May, 1994.

HON'BLE MR JUSTICE S.K.DHAON, VICE CHAIRMAN

HON'BLE MR B.N.DHOUNDIYAL, MEMBER (A)

Shri Chandrashekhar,
S/O Shri Naut Ram,
R/O 2841, Gali Mangal Singh
Mohalla Niyarian,
Delhi-6. Applicant.

(through Mr Jog Singh, Advocate)

vs.

1. Delhi Administration
through
Chief Secretary,
5, Alipur Road,
Delhi.

2. Director of Education,
Old Secretariat, New Delhi-7.

..... Respondents,

(through Mr Ajay Kumar Aggarwal, Advocate).

ORDER

PER JUSTICE S.K.DHAON(ORAL)

The controversy pertains to the appointment to the post of Post Graduate Teacher in Sanskrit.

2. The admitted facts are these. The applicant was initially appointed as Assistant Teacher with effect from 4th December, 1978. He was promoted as Trained Graduate Teacher(Sanskrit) with effect from 31st January, 1990. He is a post-graduate(Acharya) in Sanskrit. The respondents were desirous of making^{an} appointment to the post of P.G.T.(Sanskrit). Certain candidates were called for interview, however, the applicant was not called.

3. The Tribunal on 4th. September, 1992 passed an interim order to the effect that the respondents shall provisionally allow the applicant to appear in

Sm

the test which was to be held on 6th September, 1992. It was made clear that the order was subject to the final outcome of this O.A.

4. On 6th July, 1993, we directed the respondents to declare the result of the applicant. However, we made it clear that the declaration of the result of the applicant will be subject to further orders of this Tribunal. It appears that in pursuance of our order, the result of the applicant was declared. Thereafter, the applicant filed a miscellaneous application in the Tribunal praying that the respondents be directed to issue a letter of appointment in pursuance to the declaration of the result. We have not considered it proper to issue the direction, as prayed for in the miscellaneous application. However, ^{it} we considered ^{it} expedient in the interest of justice to dispose of the O.A. finally and we are doing so, after hearing the counsel for the parties.

5. The respondents have come out with the categorical case that under the existing rules, the applicant is not eligible to be considered for being appointed as P.G.T. (Post Graduate Teacher) in Sanskrit. Under the relevant rule, the essential qualification prescribed is Master Degree or its equivalent from a recognised University. There is no dispute that the applicant fulfills this requirement. The second condition is that the candidate should have a degree/diploma in Training/Education. It is contended by the learned counsel for the respondents that since the petitioner does not possess any degree or diploma in Training/Education from a recognised University, he is not eligible. This argument is countered by the learned counsel for the applicant by asserting that the applicant holds a

9

:-3:-

certificate of S.A.V. (Senior Anglo Vernacular), issued by the Directorate of Education, Delhi. Read by itself, the second requirement is absolutely silent as to from ^{which} ~~what~~ institution, a candidate should possess a degree/diploma in training. To buttress his argument, the learned counsel for the applicant has drawn our attention to the corresponding rule framed for the recruitment of T.G.T. Here, the requirement, as relevant, is degree-diploma in Training/Education or S.A.V. Certificate. It is argued with vehemence that, if the Rule framed for the recruitment of Trained Graduate Teachers equates a S.A.V. Certificate to a degree/diploma in training/education, there is no reason as to why the said certificate (SAV) should be discarded, while considering the requirements of condition No.2 in the rule relating to the recruitment of Post Graduate Teachers. Our attention has been drawn to general instructions/eligibility criteria, a true copy of which has been filed in the form of Annexure-B to the counter affidavit. In them, it is indicated that for the purpose of recruitment of a Post Graduate Teacher, the requirements of educational qualifications are a Post-Graduate Degree from a recognised University, in the respective subject and a diploma/degree in teaching/education from a recognised University. Similarly, the said document prescribed the minimum education qualification for T.G.T. as a degree in the concerned category, that is, Arts/Commerce/Science from a recognised University plus a Degree/Diploma in Teaching/Education from a recognised University.

6. According to the respondents' own case, so far as T.G.T. is concerned, a Certificate of S.A.V. has been treated to be equivalent to a degree/diploma in teaching/education from a recognised University.

7. Note 4 to the statutory rules relating to

S/7

the recruitment of Trained Graduate Teachers provides that where the Administrator is of the opinion that it is necessary or expedient to do so, he may, by order for reasons to be recorded in writing relax any of the provisions of the rules with respect to a class or category of persons or posts. However, a similar note is not to be found in the Rules relating to Post Graduate Teachers.

8. We have already indicated that the statutory rule framed under Article 309 of the Constitution with regard to the recruitment of Post Graduate Teachers is silent with respect to the institution from which a candidate should obtain a degree/diploma in training/education. An omission is apparent. However, there is no material before us that in the case of a T.G.T., a Certificate of S.A.V. is considered equivalent to either a degree or diploma in training/education. ^{a similar provision exists in the case of a P.G.T.} Unlike the T.G.T. rules, no power of relaxation is provided in the P.G.T. rules. There is nothing on record to indicate as to what practice has been adopted by the authorities concerned for the purpose of evaluating the degree-diploma in training/education for P.G.T. candidates. However, the learned counsel for the applicant has contended that even for the purpose of recruiting P.G.Ts some candidates having S.A.V. Certificates have been considered to be holders of a degree/diploma in training/education. This submission is refuted by the learned counsel for the respondents.

9. In the circumstances of the case, we consider it appropriate that the Director of Education should go into the question after taking into account all the relevant factors. We have no doubt that he will take a sympathetic view of the matter. He shall act as expeditiously as possible but not beyond a period

8/4

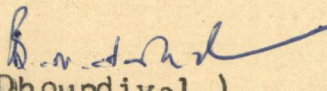
18


: -5- :

of three months from the date of presentation of a certified copy of this order by the applicant before him, in giving his decision. If the Director decides that for the purpose of appointment of the applicant as a P.G.T., a Certificate of S.A.V. is equivalent to a degree/diploma, the respondents shall act in accordance with the result already declared in the case of the applicant.

8. With the aforesaid observation, the O.A. is disposed of finally leaving the parties to bear their own costs.

/sds/


(B.N.Dhoundiyal)
Member(A)


(S.K.Dhaon)
Vice Chairman.