

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. Nos. 2216 of 1993 and 1970 of 1993
MP 2868 of 1993

New Delhi this the 19th day of January, 1994

Mr. Justice S.K. Dhaon, Vice-Chairman
Mr. B.K. Singh, Member (A)

OA 2216 of 1993

Ms. Reena Chadha
R/o C5D/80A, Janak Puri,
New Delhi-110058.

...Petitioner

O.A. 1970 of 1993

1. Ms. Raj Bala
R/o I-237, Sarojni Nagar,
New Delhi-110023.
2. Ms. Alka Tamta
R/o E-115, Sarojni Nagar,
New Delhi-110023.
3. Ms. Rachna
R/o House No.4380, Gali Rai Ji
Pahar Ganj,
New Delhi-110055.

...Petitioners

By Advocate Shri M.M. Sudan

Versus

1. It. Governor,
Delhi.,
Govt. of N.C.T. of Delhi,
Raj Niwas,
Delhi.
2. Director of Education,
Govt. of N.C.T. of Delhi,
Old Sectt.,
Delhi.

...Respondents

By Advocate Mrs. Meera Chhibber

ORDER (ORAL)

Mr. Justice S.K. Dhaon, Vice-Chairman

In these two O.As., the controversy involved is similar. They have been heard together and, therefore, they are being disposed of by a common judgment. In O.A. 2216 of 1993 there is only one petitioner and in O.A. No.1970 of 1993 there are three petitioners.

2. An advertisement was issued by the Delhi Administration on 11.02.1993 inviting applications to fill up the post of Assistant Teachers. The requirement was that the candidates who had valid registration in the Employment Exchange in Delhi and who had two years J.B.T./E.T.T. or equivalent from a recognised institution

could only apply. A Corrigendum was issued on 02.03.93 by the Controller of Examination modifying the directions of the earlier advertisement and stating therein that candidates who had appeared in the J.B.T./E.T.T. Examination in April/May of that year, could also apply. The Corrigendum made it clear that all the conditions were kept in tact. The petitioners were to appear in the E.T.T. Examination which was scheduled to be held in April/May, 1993. They applied and they were allowed to appear in the examination. Results have been declared. The petitioners find their place in the merit list. 750 candidates were to be appointed as Assistant Teachers. The petitioners' merit in the list is much above 750. It is alleged, and this fact is not disputed, that persons, who are below the petitioners in the merit list, have been issued appointment letters. The petitioners made a representation and before any decision was taken upon the same, they came to this Tribunal with these O.As.

3. A reply has been filed on behalf of the respondents. In it, the stand taken is that since the petitioners were not registered with the Employment Exchange in Delhi when they made their applications, their cases are being examined.

4. In the O.As. a specific ground has been taken that the condition laid down in the advertisement aforementioned that a candidate must be registered in the Employment Exchange in Delhi is bad and not sustainable. To the prayers in the O.As., the usual prayer is that the Tribunal may issue any other suitable direction as deemed fit and proper. We are not impressed by the argument made by Mrs. Chhibber that, in the absence of

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any specific prayer challenging the condition in the advertisement, the petitioners should not be permitted to contend before this Tribunal that the condition is not backed up by any statutory provision or executive direction. In view of the order we are about to pass, we do not consider it necessary to go into the question of validity of the condition. 6

5. Admittedly, immediately after passing the E.T.T. examination, the petitioners got themselves registered in the Employment Exchange in Delhi and they have deposited the papers of registration with the respondents. The objection raised on behalf of the respondents for not giving appointment to the petitioners that they were not duly registered with the Employment Exchange on the date of making an application, appears to be a purely technical one. If the petitioners are otherwise qualified and there is no legal impediment on issuing letters of appointment, the authority concerned shall issue them the letter of appointments within a period of 10 days from the date of production of a certified copy of this order by any one of the petitioners before it. It shall proceed on the assumption that the petitioners had been duly registered with the Employment Exchange on the date of making an application.

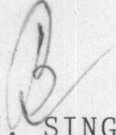
6. Mrs. Chhibber, the learned counsel for the respondents has relied upon a decision of the Supreme Court reported in JT 1993(1) SC page 220 Mrs. Rekha Chaturvedi Vs. Rajasthan University. The proposition laid down in that authority is that a candidate must be duly qualified on the date of making of the application and the subsequent acquirement of the qualification will be of no avail to such a candidate. This proposition is inexplicable. However, mere


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registration with the Employment Exchange cannot be considered to be a vital qualification. It is not the case of the respondents that, before registering a person, the Employment Exchange concerned makes any enquiry whatsoever about the antecedents of the person seeking registration. There is a distinction between registration with the Employment Exchange and sponsorship by such an exchange.

7. Keeping in view the interest of justice and fair play, we have issued the aforementioned directions to the authority concerned.

8. With these directions, these applications are disposed of but without any order as to costs.

9. Let a copy of this order be placed in both the case files.


(B.K. SINGH)
MEMBER (A)
19.01.1994


(S.K. DHAON)
VICE CHAIRMAN
19.01.1994

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