

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA 515/1993

Date of decision: 03.09.1993

Smt. Om Lata

...Petitioner

Versus

Delhi Administration & Another

...Respondents

For the Petitioner

...Shri Nand Kishore, proxy counsel for
Shri S.P. Sharma, Counsel

For the Respondents

...Mrs. Meera Chhibber, Counsel

CORAM:

THE HON'BLE MR. JUSTICE S.K. DHAON, VICE CHAIRMAN
THE HON'BLE MR. B.N. DHOUDIYAL, ADMINISTRATIVE MEMBER

JUDGMENT (ORAL)
(of the Bench delivered by Hon'ble Mr.
Justice S.K. Dhaon, Vice-Chairman)

By an advertisement published in the issue of the Indian Express dated 7.7.1990, the Delhi Administration invited applications for filling up the posts of Assistant Teachers, Trained Graduate Teachers and Post Graduate Teachers. For that purpose, a competitive examination was proposed to be held for each category. We are concerned with Trained Graduate Teachers (TGT). The petitioner appeared in the examination held on 24.03.1991. She was declared successful in the examination. She was informed that she had provisionally qualified in the written test for recruitment as a TGT. She was advised to contact the Controller of Examination on a certain date for verification of original certificates/documents along with duly attested photocopies. Later on, she was informed that she could not be given an appointment as she did not fulfil the requisite qualifications.

2. The petitioner has approached this Tribunal with a number of prayers. The first is that the respondents may be directed to appoint her as a TGT in the Government school. The second is that the respondents may be directed to give her benefit of seniority etc. as it should be deemed that she stood appointed on the basis of the results published in July, 1991. The third is that back wages etc.

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may be awarded to her.

3. The O.A. is being contested by the respondents and, therefore, a reply has been filed on their behalf. Though the O.A. has not been admitted so far, it is ripe for hearing and, therefore, we are disposing of the same finally.

4. In paragraph 4.4. of the O.A., it is stated that the petitioner had all the requisite qualifications for the post of TGT under the category Modern Indian Language in terms of the advertisement and she opted for English and Hindi subjects as per Code No.118 and 127 respectively.

5. It appears to be an admitted position that the petitioner appeared only in two subjects, i.e., English and Hindi.

6. On 05.08.1991, the petitioner gave in writing to the respondents that she passed the B.Sc. Examination in the year 1985 and offered Chemistry, Botany and Zoology as the main subjects. In addition, she passed an examination in Hindi during the IIInd year of the B.Sc. course. She also passed the M.A. Examination in the year 1988.

7. In the counter-affidavit filed, it is asserted that the petitioner was a candidate for the post of TGT (Hindi). She opted English and Hindi as two subjects in the test held on 24.03.1991. She was declared successful provisionally subject to the verification of the testimonials and other particulars of the application. During the course of verification of other particulars, it was observed that she had not read Hindi as a main subject. She confirmed in writing that she had read Hindi in the second year of B.Sc. as a compulsory subject. Accordingly, she was not eligible for the post of TGT and, therefore, the letter of appointment was not issued.

8. In the rejoinder-affidavit filed, the petitioner has asserted that she applied for the post of TGT English (Code No.118) and in the alternative for the post of TGT Modern Indian Language.

9. The advertisement contains several sub-heads. One of them is "Eligibility". That sub-head is relevant. Under it, the minimum educational qualification required for each category viz. Assistant Teacher, Trained Graduate Teacher and Post Graduate Teacher are laid

down. With respect to TGT, a degree in the concerned category, i.e., Arts/Commerce/Science from a recognised University with minimum 45% marks and Diploma/Degree in teaching/education from a recognised University are required. It is also provided that the recruitment of 45% marks at graduate level will be relaxable in the case of candidates having a Post Graduate Degree in any discipline.

10. The question which is creating some difficulty is whether Arts/Commerce/Science is being treated as a category in relation to a degree. The expression "Category" has been used in the advertisement at two places. First it is used to categorise differently Assistant Teacher, Trained Graduate Teacher and Post Graduate Teacher. Secondly it is used to qualify Arts or Commerce or Science. In the case of Assistant Teacher, the minimum educational qualification required is a degree in Arts/Commerce/Science from a recognised University and in the case of Post Graduate Teacher, the minimum educational qualification required is Post Graduate's degree from a recognised University. While providing for the relaxation in the requirement of 45% marks at the graduate level, the expression used is "discipline". It is thus clear that in the advertisement the expression "category" has been unhappily used with reference to Arts/Commerce/Science. What is intended to be stated is that there should be a degree in the concerned discipline of either Arts/Commerce/Science. In common parlance the expression "faculty" is used in place of "discipline". Therefore, it can be safely held that a TGT teacher is required to hold a Graduate's degree either in Arts/Commerce/Science. It follows that he or she must have offered such subjects for obtaining a Graduate's degree which are within the domain of discipline or faculty of Arts/Commerce/Science, as the case may be. Judicial notice can be taken of the fact that for obtaining a degree in Arts/Commerce/Science one has to study certain number of main subjects.

11. The instructions to fill the form is also divided into several sub-heads. Under the head category of TGT a number of subjects are

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mentioned. They are:

- (i) English
- (ii) Physical Science (Natural Sciences)
- (iii) Social Sciences (Humanity based subjects)
- (iv) Maths
- (v) Hindi
- (vi) Sanskrit
- (vii) Punjabi
- (viii) Urdu

These subjects are mentioned for allocating code numbers.

12. The instructions also contain categories like TGT Maths, TGT English, TGT Social Sience and TGT Modern Indian Laugstes. For those offering TGT English it is provided that "the candidate concerned will appear in two subjects out of the following with English as compulsory:

- (i) English
- (ii) History
- (iii) Political Science
- (iv) Economics
- (v) Commerce
- (vi) Geography
- (vii) Agriculture
- (viii) Horticulture"

Under the category Modern Indian Languages it is provded that the applicants will have to appear in two of the following subjects:

- (i) English
- (ii) Hindi
- (iii) Sanskrit
- (iv) Urdu
- (v) Punjabi

13. Admittedly, the petitioner did not and could not offer Hindi as a main subject in the B.Sc. examination. According to her, she passed Hindi in the second year of the B.Sc course. Obvioulsy, she was required to offer Hindi as a compulsory paper in addition to the main subjects which, according to her, were Chemistry, Botany and Zoology. She, it appears, was compulsorily required to offer Hindi

as a paper in the B.Sc. examination. Hindi could not and does not fall in the discipline or faculty of Science. The petitioner, therefore, could not offer Hindi as one of the subjects in the competitive examination conducted by the Delhi Administration.

14. We have already stated that the petitioner offered only two subjects, namely, English and Hindi. If she wanted to fall in the category of TGT English, she was required to offer either History or etc. and not Hindi

Political Science or Horticulture/ as one of the subjects in addition to English, which was compulsory. She did not do so.

15. A Post Graduate Degree in English too could not advance the case of the petitioner. Firstly she did not do her graduation in English as one of the main subjects. Secondly, she did not offer History etc. as one of the subjects along with English in the competitive examination. She, therefore, could not fall in the category of Modern Indian Language.

16. It is argued on behalf of the petitioner that, in any view of the matter, the respondents are estopped from denying an appointment to her as on account of their own conduct, the petitioner appeared in the examination and she had been declared successful. The instructions which were issued along with the form throw some light on this aspect. It is emphasised therein that the applicants should read the conditions for recruitment carefully to see if they are eligible and should apply only if they fulfil all the conditions to avoid disappointment at a later stage. The Directorate of Education, Delhi Administration will not entertain any scrutiny of the applications before written 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. It is also provided that the application forms are to be processed by a computerised system. The applicants are, therefore, advised to follow the instructions carefully. The said form, therefore, clearly gave a warning to all intending applicants that they would be

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appearing in the examination at their own risk and that their forms will be scrutinised at a later stage. In view of this categorical averments in the instructions, no case for raising the pleas of estoppel is made out. Moreover, it has not been shown to us as to how the ^{was} petitioner's position altered to her detriment merely because she was declared provisionally successful in the examination.

17. There is no substance in this application and the same is dismissed but without any order as to costs.

B.N.Dhundiyal
(B.N. DHUNDIYAL)

MEMBER (A)
03.09.1993

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(S.K. DHAON)
VICE CHAIRMAN
03.09.1993

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