

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

O.A.No. 1080/93.

DATE OF DECISION 15.10.1993SMT. S.K. GROVER, PetitionerSHRI V.S.R. KRISHNA, Advocate for the Petitioner(s)

Versus

DIRECTORATE OF EDUCATION, RespondentGOVT. OF N.C.R. DELHI & OTHERS
SHRI B.S. OBEROI, PROXY COUNSEL Advocate for the Respondent(s)
FOR SHRI S.D. SHARMA,

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The Hon'ble Mr. N.V. KRISHNAN, VICE-CHAIRMAN (A)

The Hon'ble Mr. B.S. HEGDE, MEMBER (J)

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

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[DELIVERED BY HON'BLE SHRI B.S. HEGDE, MEMBER (JUDICIAL)]_7

The applicant has filed this application under
Section 19 of the Administrative Tribunals Act, 1985 against
the decision of non-consideration for promotion to the post
of PGT (Home Science) by the Director of Education, Government
of National Capital Region, Delhi vide their communication

dated 27.4.1992.

2. The applicant entered Government service as a Junior Domestic Science Teacher in the year 1957 and she was holding intermediate with diploma in home science. While in service, she did her B.A. degree in 1958 and was promoted in the year 1959 as Senior Domestic Science Teacher (TGT Scale). She got B.Ed. degree in 1981 and also completed successfully 3 summer institutes/courses in 1975 to 1977 and also got post graduate degrees in M.A. (English) and M.A. (Political Science) in 1973 and 1986 respectively. The applicant contends that the Director of Education introduced posts of PGT (Home Science) in 1977 and recruitment rules were framed in 1980. Though the applicant has been claiming for promotion to PGT, so far the Respondents did not accede to her request. Accordingly, she prayed for the following reliefs :-

- (i) To consider the applicant for promotion to the post of PGT (Home Science) w.e.f. 1980 or the date her juniors were promoted.

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(ii) To amend the recruitment rules for PGT (Home Science) by adding the qualification of graduation with Diploma in Home Science to the existing entries of B.Sc. (Home Science), B.Ed.

(iii) To consider graduation with diploma home science as equivalent to B.Sc. (Home Science).

3. The main thrust of arguments of the applicant is that the entry qualification for Senior Domestic Science Teacher/TGT is graduation from a recognized university with diploma in Home Science from a recognised institution or B.Sc. (Home Science) with degree or diploma in Training/Education for PGT (Home Science). The qualification required for PGT is M.Sc. (Home Science) from a recognized university or B.Sc. (Home Science) and B.Ed. from a recognized university provided the teacher pursued a condensed course in Home Science through one year evening course or 3 consecutive summer institutes. When the applicant made a representation that she should be considered

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for the post of PGT in Home Science, the Respondents vide their letter dated 27.4.1992 turned down the request stating that she did not fulfil the educational qualification for the post.

4. As mentioned earlier for a PGT Home Science Teacher, the required qualification is M.Sc. (Home Science) from a recognized Institution or B.Sc. (Home Science) with B.Ed. from a recognized university provided a teacher has satisfactorily pursued a condensed course in home science through consecutive summer institutes or through one year evening course. It is an undisputed fact that the applicant possesses neither M.Sc. (Home Science) nor B.Sc. (Home Science) but possesses B.A. Degree and one of the subjects is home science and diploma in home science. Subsequently, she did post graduate degrees in M.A. (English) and M.A. (Political Science).

5. The short question for consideration is whether the degree of the applicant can be equated with that of the requisite qualification prescribed for PGT (Home Science).

6. The Respondents, in their reply, categorically stated that the applicant did not fulfil the qualification

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prescribed for the post of PGT (Home Science).

Promotion to PGT (Home Science) can only be considered to those who fulfil the prescribed qualifications and not otherwise. They denied the contention of the applicant that Bachelor of Arts with English, Political Science (Home Science) is equal to Bachelor of Home Science.

Since the recruitment rules specifically stipulates prescribed qualifications, an the B.Sc. (Home Science) is an intensive course in which subject relating to Home Science is taught, therefore, the Bachelor of Arts with Home Science as one of the subject is not equivalent to B.Sc. (Home Science). Further, a PGT is required to teach senior classes and for appointment to the post of PGT separate recruitment rules have been made, and they are required to possess higher qualifications than is required to teach students of junior classes. Further, for appointment to the PGT in any subjects, prescribed qualification is Master Degree in that subject, whereas in the case of Home Science, certain relaxations have been given B.Sc. (Home Science) with B.Ed. qualification and with course in 3 consecutive

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summer course or one year evening course have been allowed to be eligible for the post of PGT. So far as the monetary benefit is concerned, Respondents have stated in their reply that a TGT is given senior scale after rendering 12 years service. The senior scale is equivalent to the scale of PGT, Rs. 1640-2900. This scale is given to a TGT who fulfils the required conditions. They also denied that any junior to the applicant who did not possess prescribed qualifications has been promoted to the post of PGT. In fact, the applicant was given the senior scale which is ~~the~~ equivalent to PGT scale and she has been drawing the same in the grade of TGT.

7. We have heard the counsel for both the parties and perused the records carefully. During the course of the hearing, learned counsel for the applicant, Shri VSR Krishna drew our attention to various certificates issued by the respective authorities (Annexure R-I) indicating that she has been teaching Home Science to Class XI and XII. It is not disputed that it is only an ad hoc arrangement and not made in accordance with the rules. The learned counsel also cited various

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decisions e.g. E.P. Royappa vs. State of Tamil Nadu

[AIR 1974 SC 555] AND Dr. Ms. O.Z. Hussein vs. UOI & Ors

[AIR 1990 (1) SC 437] and other case-laws in support

of his contention and also decisions of this Tribunal

vide dated 23th February, 1987 - Thakar Das Sapra &

Others vs. Lt. Governor, Delhi wherein specific obser-

vation was made that the petitioners cannot insist

that they have a right to teach any particular class

though they may have a justified grievance if their

pay and allowances are affected because of retrospec-

tive amendment of the recruitment rules. The decision

in those cases do not apply to the facts of the present

case because in the instant case the applicant has

never been considered for the post of PGT for want

of requisite qualifications. It cannot be said that

the criteria laid down in choosing PGT teachers pres-

cribing higher qualifications is unjust and illegal.

Learned counsel for the Respondents draws our atten-

tion to Tribunal's decision rendered at Madras in P.

Narayanan Kutty vs. Union of India [1990 (12) ATC 282]

in which the Tribunal had observed that there is no

question of absolute equality of treatment; graduates and

diploma holders were not treated as equal in the matter

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of eligibility for promotion. This view of the Tribunal is further fortified by the decision of the Supreme Court in Roop Chand Adlakha v/s Delhi Development Authority case [AIR 1989 SC 307] wherein it was observed that the graduates and the diploma holders are not treated as equal in the matter of eligibility for promotion and the prescription of different standards of conditions of eligibility was there and having regard to the requirements to the promotional posts, the prescription of different conditions of eligibility for promotion with differences based on the educational qualifications and service experience cannot be challenged. The eligibility was determined in that case by a cumulative criterion of certain educational qualification and service experience. Such a prescription being essentially a matter of policy, though it may cause hardship to a few diploma holders, is no reason to strike down the rule as arbitrary or unreasonable. The facts of this case is analogous to the case cited above. Further, the Constitution Bench of the Supreme Court in the State of Jammu & Kashmir v/s T.N. Khosla [AIR 1974 SC 1] has observed that the classification on the basis of educational qualifications made with a view to achieving administrative efficiency cannot be said to rest on in fortuous circumstances and one always has to bear in mind that the facts and circumstances of the

case in order to judge the validity of a classification. Similarly, in the instant case prescribing higher qualifications for PGT teaching cannot be treated as arbitrary and within the competence of the Respondents. Therefore it is not open to the applicant to challenge the policy decision of the Respondents. The competence of the Respondents to amend the recruitment recruitment which in no way affects the rights of the applicant.

8. In the present case it is not the case of the applicant that she is otherwise qualified and she should be considered for the PGT teaching. It is an admitted fact that she has not qualified and does not have the required qualifications for teaching PGT (Home Science) and her contention that her qualifications should be equated with that the qualifications prescribed under the rules does not appear to be correct and justified under the circumstances. Keeping in view the ratio decidendi laid down in the aforesaid Supreme Court decision, we are of the opinion, that there is no force in the contention raised by the applicant and just because she taught some time to higher classes on ad hoc basis, she cannot claim as a matter of right to be considered for the post of PGT

teacher. In the facts and circumstances of the case,
we do not see any merit in the petition and accordingly
we dismiss the same. There shall be no order as to
costs.

(B.S. Hegde)
Member (J)

15/10/93

(N.V. Krishnan)
Vice-Chairman (A)