



**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.1281/2021
M.A. No. 1616/2021
M.A. No. 1617/2021
M.A. No. 1618/2021

This the 7th day of July, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

1. Payal, D/o Shri Sunil Alekar
R/o 178 Sector 17, Old Faridabad
Kheri Kalan (113), Haryana 121002
2. Ekta, D/o Shri Anil Kumar
R/o E-2 Satyawati Colony
Ashok Vihar – Phase – III
Near Lakshmi Bai College
Swamy Narayan Underpass

.. Applicants
(Applicant in person)

VERSUS

1. New Delhi Municipal Council
Through its Chairman
Palika Kendra Sansad Marg
New Delhi – 110001
2. Directorate of Education
Through its Director
Old Secretariat Delhi - 110054
3. Delhi Subordinate Services Selection Board
FC-18 Institutional Area
Karkardooma, Delhi – 110092
Through its Chairman

.. Respondents

(By Advocates : Ms. Esha Mazumdar and Ms. Sriparna
Chatterjee)

ORDER (ORAL)



Justice L. Narasimha Reddy, Chairman:

The Delhi Subordinate Services Selection Board (DSSSB) issued a notification on 12.05.2021 inviting applications for various posts, including the post of Assistant Teacher (Primary) with code No. 42/21. The method of applying for the post as well as qualifications, are stipulated in the notification itself. The qualifications for the post of Assistant Teacher (Primary) are also prescribed. The applicants hold the Graduation Degree and B.Ed. Degree. They contend that though they held the qualification stipulated by the National Council for Teachers Education (NCTE) and in a way, superior to those stipulated by the respondents, their applications are not being received. In this background, they filed this OA with a prayer to direct the respondents to treat them as qualified for the post of Assistant Teacher (Primary) and to consider their cases accordingly. The case was heard earlier and we granted time to the learned counsel for the respondents to obtain instructions.

2. Today, we heard the applicant, who argued her case in person, and Ms. Esha Mazumdar and Ms. Sriparna Chatterjee, learned counsel for the respective respondents, in detail.

3. The qualifications stipulated for the post of Assistant Teacher (Primary), read as under:-



1. Senior Secondary (or its equivalent) with at least 50% marks and 2 years Diploma in elementary education (by whatever name known) from a recognised Board

OR

Senior Secondary (or its equivalent) with atleast 45% marks and 2-years Diploma in elementary education (by whatever name known) in accordance with the NCTE (Recognition Norms and Procedure) regulations-2002

OR

Senior Secondary (or its equivalent) with atleast 50% marks and 4-years Bachelor of elementary education (B.El.Ed)

OR

Senior Secondary (or its equivalent) with atleast 50% marks and 2-years Diploma in Education (special education) from a recognised Board

OR

Graduation and 2-years Diploma in elementary education (by whatever name known) from a recognised Board

2. Pass in the Central Teacher Eligibility Test (CTET) conducted by the Central Board of Secondary Education (CBSE).
3. Must have passed Hindi or Urdu or Punjabi or English as a subject at Secondary Level.

Note – Relaxation up to 5% in the qualifying marks (in Academic qualification) shall be allowed to the candidates belonging to reserved categories such as SC/ST/OBC/PH.”

There is no indication that the candidates holding B.Ed would be eligible to apply for the post.

4. The applicants hold the qualification of Graduation as well as B.Ed. Though it is stated that they hold the Central Teachers



Eligibility Test (CTET) qualification also, it is not in complete form. Obviously for that reason, their applications are not accepted by the system evolved by the respondents through online. The contention of the applicant is that vide its notification dated 28.06.2018, the NCTE declared the candidates with B.Ed. as eligible to be appointed as teacher in primary school for teaching Classes I to V, provided the persons appointed as Assistant Teacher, shall undergo six months bridge course in elementary education. They contend that once the statutory body at national level stipulated such qualification, there is no basis for the respondents to ignore the same.

5. It is true that in OA No. 2998/2019, this Tribunal took the view that the qualification stipulated by the NCTE, do not apply *per se* in a State, unless they are specifically adopted. It is also brought to our notice that a Writ Petition is pending against the said judgment. However, in the recent past, the Hon'ble Supreme Court dealt with this issue in Civil Appeal bearing No. 3707/2020

(Ram Sharan Maurya and ors. Vs. State of UP and Ors.)
and batch. In the judgment dated 18.11.2020, their Lordships discussed the matter at length and held that once the NCTE stipulated the qualifications, the candidates possessing them become eligible, even if the States have not adopted such qualification. Para 43 of the judgment reads as under:



“43. The Notification dated 28.06.2018 being binding on the State Government, the statutory regime put in place by the State has to be read in conformity with said Notification. The eligibility or entitlement being already conferred by Notification dated 28.06.2018, the amendments to 1981 Rules were effected only to make the statutory regime consistent with the directives issued by the NCTE. The right or eligibility was not conferred by amendments effected to 1981 Rules for the first time and therefore the element of retrospectivity present in the concerned amendments has to be read in that perspective. The intent behind those amendments was not to create a right for the first time with retrospective effect but was only to effectuate the statutory regime in tune or accord with NCTE directives. Theoretically, even if such statutory regime was not made so consistent, the concerned candidates holding B.Ed. degrees could still be eligible and could not have been denied candidature for ATRE- 2019.”

6. The last sentence of the paragraph extracted above becomes material in this behalf. In categorical terms, their Lordship's held that even if the State did not adopt the regime stipulated by NCTE, the candidates become eligible to apply.

7. In that view of the matter, we allow the OA and direct that the respondents shall treat the candidates holding B.Ed. Degree as eligible to apply for the post of Assistant Teacher (Primary). To avoid the hardship to the candidates, who did not apply so far, we direct that the respondents shall issue a corrigendum, enabling the candidates with B.Ed. Degree to apply for the post of Assistant Teacher (Primary) and provide them reasonable time to apply.

Pending MAs also stand disposed of. There shall be no order as to costs.

Order by **DASTI.**



(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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