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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH;CUTTACK

O.A. 321/91

Cuttack this the 12th day of March, 97.

HON'BLE SHRI SOMNATH SOM, VICE CHAIRMAN(A).
HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER(J).

A. Kameswar Rao

... Applicant.

Versus

Union of India & Ors.

... Respondents.

(FOR INSTRUCTIONS)

1. Whether it be referred to the Reporters or not? *yes*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? *X*

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)

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Cuttack the 12th day of March, 1997.

HON'BLE SHRI SOMNATH SOM, VICE CHAIRMAN(A).

HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER(J).

A. Kameswar Rao,
S/o Shri A.C. Murty,
Trained Graduate Teacher,
South Eastern Railway, M.H.S. School,
Khurda Road, P.O. Khurda Road,
Distt. Puri.

... Applicant.

By Advocate Shri B.L.N. Swamy.

Versus

1. Union of India,
represented by the Secretary,
Railway Road,
Rail Bhawan, New Delhi.
 2. General Manager,
South Eastern Railway,
Garden Reach, Calcutta(W.B.)
 3. The Chief Personnel Officer,
South Eastern Railway,
Garden Reach, Calcutta (W.B.)
 4. The Divisional Railway Manager,
Khurda Road Division, Khurda Road,
Distt. Puri.
 5. The Senior Divisional Personnel Officer,
S.E. Railway,
Khurda Road Division, Khurda Road,
Distt. Puri.
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6. Sri P. Mrutyunjaydu,
working as a Primary School Teacher,
M.H.S. School, Khurda Road,
Distt. Puri.

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... Respondents.

By Advocate Shri D.N. Mishra.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant, who is working as a Trained Graduate Teacher in M.H.S. School, Khurda Road, is aggrieved that he has not been sponsored by the respondents for appointment to the post of Post Graduate Teacher (P.G.T.) in terms of their letter dated 17.6.1991. He claims that there has been hostile discrimination against him inasmuch as Respondent 6, Sri P. Mrutyunjaydu, who had been called for selection for P.G.T. did not possess the essential qualifications prescribed for the post, namely, B.Ed qualification, as he only had Sikhya Visarad/Sikshya Sastri which cannot be equated to Bachelors degree in education or two years training imparted by Regional College of Education.

2. The brief facts of the case are that the applicant states that he is a 2nd class M.A. in Telugu and has acquired the qualification in Senior Basic Training which is a two years course offered by the Government of Andhra Pradesh. He claims that although he was eligible for appointment to the post of P.G.T. in 1988, another person Shri P.K. Murty, had been appointed. Thereafter, it is an admitted fact that the Railway Board by their letter dated 4.10.1989 modified the qualifications, prescribing the following qualifications for P.G.T. teachers:

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"3. Post Graduate Teachers -

- (i) II Class Masters Degree in any of the teaching subjects.
- (ii) University Degree/Diploma in Education/Teaching or integrated two year's Post Graduate Course of Regional Colleges of Education of NCERT.
- (iii) Competence to teach through the medium/media as required.

NOTES - The condition of II class in Master's Degree can be relaxed in respect of promotee candidates who have at least 5 years experience".

The applicant claims that as a result of the change of service conditions he has been over-looked for being considered for promotion to P.G.T. post whereas the Divisional Railway Manager - Respondent 4 - had sponsored the name of Respondent 6 for the post of P.G.T. in Telugu by the impugned letter dated 17.6.1991. The applicant has assailed the action of the respondents on the following grounds:

- (i) That when the vacancies for the post of P.G.T. arose in 1986 and 1988, his name had been considered whereas he has been left out in 1991;
 - (ii) That one Mr. M. Ojha, Teacher Grade-I, had been given promotion as Head Master Class-II in the Railway, B.H.S.S. Chakradharpur even though he did not have training qualification;
 - (iii) That one Shri B. Surya, a Teacher, had preferred an application to the Tribunal (Calcutta Bench) (O.A. 707/91) for promotion to the post of Trained Graduate Teacher;
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- (iv) That the respondents have unilaterally changed the qualification required for P.G.T. teachers, and they were imposing the restriction on his promotion which was bad in law and liable to be struck down;
- (v) That since the applicant is a Trained Graduate Teacher and has ^{got} more than eight years of service, the requirement of University Degree or Diploma in teaching should have been varied and his name should also have been sponsored for consideration for promotion;
- (vi) That there has been hostile discrimination against him in applying the Railway instructions above; and
- (vii) That sufficient time had not been given by the respondents to enable the applicant to get the qualifications as per the amended recruitment rules of 4.10.1989.

For the above reasons, he has sought a direction that his name should be sponsored and he should be considered for appointment to the post of P.G.T.

3. The respondents 1-5 have filed their reply controverting the above facts and we have also heard Shri D.N. Mishra, learned counsel. However, Respondent 6 whose promotion has been assailed by the applicant, has not filed any reply.

4. It is an admitted fact that the respondents have by their notification dated 4.10.1989 revised the qualifications of teachers in Railway schools and have included the qualifications for the post of P.G.T. as given in paragraph 2 above. We note that in

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1988, the applicant had been called for selection to the post of P.G.T. in accordance with the then existing recruitment rules/instructions and the applicant cannot, therefore, have any grievance on that ground. In the case of Mr. Ojha who had been promoted to the post of Head Master Class II, it is noted that his empanelment of Teacher Grade-I was in the year 1969 which was in accordance with the then relevant qualifications and this also cannot assist the applicant. As regards the case of Shri Surya Rao, the same is stated to be subjudice, apart from the fact that the applicant has himself stated that he has challenged in that case the promotion to T.G.T. and ^{not} P.G.T. and, therefore, this case is not relevant to the facts of this case.

5. The respondents have submitted that they have only fixed the minimum qualifications for promotion to various grades of teachers in accordance with the highest standard of education ^{an} now prescribed on/All India basis. It is settled law that prescribing eligibility conditions for qualifications for recruitment to various posts is a matter of policy which is for the executive to decide taking into account various relevant facts. In the Railway Board's letter dated 4.10.1989, it has been stated that the question of updating the qualifications/revision of qualifications of teachers in Railway schools, has been examined in line with those prescribed by Kendriya Vidyalaya Sangathan and Delhi Administration. They have prescribed the qualifications for both promotion and recruitment categories.

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In the circumstances, we do not see any illegality in the prescription of the qualifications for recruitment/promotion to the post of P.G.Ts by the letter dated 4.10.1989 for the selections held in 1991 and the objections taken by the applicant are, therefore, rejected.

6. Regarding the next ground taken by the applicant, it is seen from the Notes to the qualifications given for P.G.Ts that the relaxation is in respect of promotee candidates with regard to holding of II class in Master's Degree in the teaching subject and not for the Degree/Diploma in Education/teaching, as claimed by the applicant which can be given. This ground also, therefore, fails.

7. However, with regard to hostile discrimination, the applicant has submitted that Respondent 6 also did not possess the B.Ed qualification, as stated by the respondents in paragraphs 10 and 11 of the counter, and is only having Sikhya Visarad/Sikshya Sastri which is not equivalent to a training imparted by Regional College of Education. In this regard, it is noted that the respondents were directed by the Tribunal's orders dated 4.11.1994 and 19.5.1995 to produce the necessary records to support their contention regarding the qualifications of Respondent 6 which, however, they have failed to do. Further, by the order of the Tribunal dated 19.9.1991, it had been ordered that the applicant shall also be considered for the post of P.G.T. in Telugu but the result of the same should be kept in a sealed cover. By the subsequent order dated 6.4.1994, the respondents were also directed that the result

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in respect of the applicant be published and intimation given to us. However, the above records have not been submitted by the respondents. In the circumstances, there is no alternative but to hold that the respondents have failed to satisfactorily explain whether Respondent 6 possesses the B.Ed qualification with proof thereof, and if he did not have this qualification, as submitted by the applicant, how he had been considered for promotion to the post of P.G.T. whereas the same had not been done in the applicant's case. The respondents have stated that the applicant has a Basic Teacher's Certificate issued by the Andhra Pradesh Education Department dated 17.6.1959 which, according to the applicant, is sufficient qualification similar to that possessed by Respondent 6. It is also relevant to note that Respondent 6 who has been impleaded in this case has not filed any reply denying the applicant's claim. Therefore, in the absence of the official records pertaining to educational qualification of Respondent 6, there has been hostile discrimination against him and this O.A. is, therefore, entitled to succeed on this ground.

8. In the result, this application is disposed of with the following directions:

- (i) Respondents 3-5 shall verify their records with regard to educational qualifications of Respondent 6, in particular whether he possesses the B.Ed. qualification or any relaxation had been given to him in the selection of 1991 which has not been given to the applicant. After such scrutiny the respondents shall pass a reasoned and speaking order within one month from the date of receipt of a copy of this order, with intimation to the applicant

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along with a copy of the B.Ed qualification said to be passed by Respondent 6.

- (ii) However, in case it is found that Respondent 6 is not possessing the B.Ed qualification and relaxation was given to him but not to the applicant in regard to the qualification, in that event the letter dated 17.6.1991 (Annexure-3) is quashed and set aside, in so far as it relates to the selection to the post of Telugu Teacher. The respondents are directed to hold a fresh selection for this post in accordance with the existing recruitment rules/instructions within two months from the date of receipt of a copy of this order. No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)

Somnath Som
(Somnath Som
Vice Chairman (A) 12/3/97)

'SRD'