

14
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.229 OF 2008
Cuttack this the 01st day of April, 2011

Ganapati Pradhan...Applicant

-VERSUS

Union of India represented & Ors. ...Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ?
2. Whether it be referred to CAT, PB, New Delhi or not ?


(C.R.MOHAPATRA)
ADMINISTRATIVE MEMBER


(A.K.PATNAIK)
JUDICIAL MEMBER

15

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.229 OF 2008

Cuttack this the _____ day of April, 2011

CORAM:

HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER
AND
HON'BL SHRI A.K.PATNAIK, JUDICIAL MEMBER

...
Ganapati Pradhan, S/o. Saheb Pradha, At/PO-Kalamba, Dist-Ganjam, at present
working as TGT (Math) at JNV, Gosala, PO-Kalamati, Dist-Sambalpur
...Applicant
By the Advocates:M/s.A.K.Bose, P.K.Das, & D.K.Mallick

-VERSUS

1. Union of India represented through its Secretary, Ministry of Human Resources Development, Sastri Bhawan, New Delhi
2. Commissioner, Navodaya Vidyalaya Samiti, A-28, Kailash Colony, New Delhi-110 048
3. Deputy Commissioner, Navodaya Vidyalaya Samiti, At/PO-16, Zone-II, M.P.Nagar, Bhopal (M.P.)-462 011

...Respondents

By the Advocates:Mr.U.B.Mohapatra, SSC

ORDER

HON'BLE SHRI A.K.PATNAIK, JUDICIAL MEMBER:

1. Applicant is a Trained Graduate Teacher (Math) in short T.G.T.(Math) working in Jawahar Navodaya Vidyalaya, Sambalpur. According to him, he has done Post Graduate degree in Chemistry. As per the Recruitment Rules, T.G.T.(Science) having Bachelor Degree in Physics, Chemistry and Mathematics is eligible to be promoted to the post of Post Graduate Teacher (Chem) (in short PGT) provided he is a Post Graduate degree holder in Chemistry. It is the case of the applicant that being the senior most eligible TGT(Math) while he was expecting promotion to P.G.T.(Chem), a notification dated 16.7.2007, what is called NVS Recruitment (Revised) Rules, 2007(Annexure-A/3) came to be issued, being made effective from the date of its issuance. As per the said notification, the T.G.Ts having 3 years of regular service in NVS with Master Degree (Post Graduate Degree) and subject to qualifying the Departmental Examination to be conducted by the Respondent-Organization are eligible to be considered for their promotion. In the above eligibility

condition, the feeder post being TGT, the incumbent can be promoted to PGT. But so far as applicant is concerned he is in an disadvantageous position as under:

“TGT (Math) – PGT (Math./Physics) subject to condition that the concern TGT should have acquired Master Degree in Mathematics or Physics”.

2. According to applicant, prior to amendment of the Recruitment Rules, as referred to above, TGTs(Math,) were being promoted to PGTs(Chemistry). In the above context, being apprehensive, the applicant preferred a representation dated 23.8.2007(Annexure-A/4) in the matter of applicability of amended Recruitment Rules, 2007, to his case praying therein that to promote him to PGT (Chem), in response to which the applicant received a reply, vide Annexure-A/6 dated 8.10.2007 intimating that the promotion of TGT(Math) would be considered in accordance with revised Recruitment Rules. The grievance of the applicant is that vacancies in the posts of PGT(Chemistry) are existing prior to coming into force of Revised Recruitment Rules dated 16.6.2007 and therefore, the right which had already accrued on him for consideration of his case for promotion could not be taken away by a subsequent notification dated 16.6.2007. In the circumstances, the applicant has sought for the following relief:

- i) The applicant be declared eligible for promotion to the post of PGT (Chemistry) and his case for consideration for promotion to the above post be done accordingly.
- ii) The letter dated 8.10.07 under Annexure-6 be quashed and if required Col.8(v) of the recruitment rules (revised) 2007 so far as post Graduate Teacher is concerned, be quashed.
- iii) Any other appropriate order be also passed or direction be made which deems just and proper and the Original Application be allowed with cost.

3. Respondent-NVS have filed their counter affidavit opposing the prayer of the applicant. It has been submitted that Navodaya Vidyalaya Samiti is an autonomous establishment. The Executive Committee is empowered to frame the policies and rules for the effective functioning of the Organization. The recruitment rules of the Samiti were under review of the Executive Committee from time to time as per requirement. According to them, the recruitment rules were initially framed in the

year 1991, thereafter it was reviewed and revised in the year 1995 and again in 2007 to overcome the practical difficulties and to ensure that the interests of all stakeholders are protected in a balanced and justifiable manner. With these submissions, the Respondent-Samiti have prayed that the O.A. being devoid of merit is liable to be dismissed.

4. Applicant has not filed any rejoinder to the counter affidavit.
5. We have heard Shri A.K.Bose, learned counsel for the applicant and Shri U.B.Mohapatra, learned SSC for the Respondent-Samiti and perused the materials on record.
6. This matter came up on 3.6.2008 for admission, when this Tribunal admitted the O.A. and directed notice to Respondents. Further, vide order dated 20.6.2008, this Tribunal, as an interim measure, directed Respondent Nos. 2 and 3 to allow the applicant to appear for the Department Examination that was scheduled to be held on 28.6.2008 at Chandigarh for promotion to the post of PGT (Chem) since the vacancies against which the said examination was being conducted had arisen prior to coming into force of the revised Recruitment Rules, 2007 but the Applicant did not appear in the said examination.
7. In the above background, we have considered the submissions made by the learned counsel for the parties. It reveals from Annexure-A/7 dated 20/23.7.2001 that the applicant had been offered with appointment to the post of PGT (Chemistry) posting him to Manipur on Direct Recruitment basis. As it reveals, the applicant, for some unavoidable, circumstances, did not join the said post of PGT. Be that as it may, it is the settled position of law enunciated by the Hon'ble Apex Court from time to time that the vacancies which had existed prior to amended/revised Recruitment Rules are to be filled by the Recruitment Rules which was in vogue prior to coming into force of the amended recruitment rules. To this extent, although the applicant, appears to be aggrieved, but he has not made out any case to the effect that there being existence of vacancies in the post of PGT(Chem) prior to amendment of the Recruitment Rules, the Respondent-Samiti filled up those vacancies by adhering to amended Recruitment Rules for which the applicant has been deprived of his right to be considered against those vacancies existed prior to amendment of the Recruitment Rules. Viewed from this, the applicant has no cause of action in this regard.



8. In so far as his 2nd prayer for quashing the letter dated 8.10.07 under Annexure-6 is concerned, the applicant has not put forth any reasonable ground as to why the same should be quashed. The prayer made by the applicant in this respect is misconceived.

9. As regards his prayer for quashing Col.8(v) of the recruitment rules (revised) 2007, the applicant is yet to exhaust the departmental remedies and to this extent, his prayer is too premature to entertain.

In the result, the O.A. is dismissed. No costs.


(C.R.MOHAPATRA)
ADMINISTRATIVE MEMBER


(A.K.PATNAIK)
JUDICIAL MEMBER

BKS