

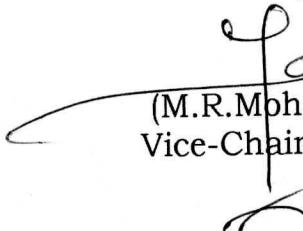
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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

O.A.No. 484 of 2008  
Cuttack, this the 19<sup>th</sup> day of ~~October~~ , 2010

Mr.Upendra Nath Rath .... Applicant  
Versus  
Union of India & Ors. .... Respondents

1. Whether it be referred to the reporters or not?
2. Whether it be circulated to all the Benches of the Tribunal?

  
(M.R. Mohanty)  
Vice-Chairman(J)

  
(C.R. Mohapatra)  
Member (Admn.)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

O.A. No.484 of 2008  
Cuttack, this the 19th day of October, 2010

C O R A M

THE HON'BLE MR.M.R.MOHANTY, VICE-CHAIRMAN (J)  
AND  
THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)

Mr. Upendra Nath Rath, aged about 46 years, Son of Late Bidyadhar Rath of Village-Solabandha, PO. Champeswar, PS-Kanpur, Dist. Cuttack at present serving as Primary Teacher, Kendriya Vidyalaya, Gopalpur Military Station, PO. Golabandha, Dist. Ganjam.

.... Applicant

By legal practitioner: M/s. B.K.Biswal, S.K.Samal, Counsel  
-Versus-

1. Commissioner, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Saheed Jeet Singh Marg, New Delhi-110 602.
2. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Bhubaneswar, Dist. Khurda, PIN 751 017.
3. Joint Commissioner (Admn.) Kendriya Vidyalaya Sangathan, 18 Institutional Area, Saheed Jeetsingh Marg, New Delhi -110 602.

.... Respondents

By legal practitioner: M/s. Ashok Mohanty, H.Tripathy, P.K.Mohanty, P.K.Sahu, Jeetendra Sahu, Counsel.

O R D E R

MR. C.R.MOHAPATRA, MEMBER (ADMN.):

Applicant is a Primary Teacher of Kendriya Vidyalaya Sangathan presently posted at KV Gopalpur Military Station, Golabandha in the District of Ganjam. In this Original Application filed U/s.19 of the A.T. Act, 1985, he seeks direction to the Respondent No.1 to consider his case for promotion to the post of TGT (English) and to declare the action of the Respondent No.2 in not sending the service particulars to the Respondent No.1 for promotion to the post of TGT (English) on the ground that the applicant has not studied English as an elective subject at Degree level is illegal and bad in law.

2. Applicant's contention, in support of the above prayers, is that promotion to the post of TGT is made from amongst the eligible PRTs having 5 years regular service with Bachaler degree in the concerned subject. He has obtained Master Degree in English. The object of studying English as elective subject at Degree level for getting promotion to the post of TGT (English) that one must have proficiency in English. He was allowed to teach the post of TGT (H.U.M) as he is having the qualification of B.Ed and MA (Hist.). There is no provision in the curriculum to study English as an elective subject at Degree level. English is taught as compulsory subject in Degree level. He has passed three papers carrying 100 marks each. When Post Graduate Qualification in English is not in dispute, there exists no plausible reason to hold him ineligible for promotion on the ground that he has not studied English as elective subject at Degree level. Therefore, the criteria for studying English as an elective subject in the degree level should not stand as a bar for his promotion to TGT (English). It is, therefore, contended by him that in the circumstances, keeping him out of consideration for the post of PGT (English) was illegal and as such he is entitled to the relief claimed in this OA.

3. By filing counter the Respondents opposed the contention of the Applicant. It has been stated that prior to 01.08.2008 i.e. revision of the Recruitment Rules, a Primary

Teacher/HM was eligible for promotion to the post of TGT (English) if he/she has studied English as an Elective subject at Degree Level. The applicant has studied English as a compulsory subject at his Graduation level and thus is not eligible for promotion to the post of TGT (English) as per the Recruitment Rules/provision made in the code of the KV. As the applicant has not studied English as an elective subject at Degree level which is a condition precedent as per the Rules, he was not entitled to for consideration. Accordingly, Respondents have prayed for dismissal of this OA.

4. In the rejoinder filed by the Applicant, besides reiterating the stand taken in his Original Application it has been contended that the intention of the regulation requiring the PRT for studying English as an elective subject at Degree level is that he should have proficiency in the subject. Possessing Master Degree in English having three papers in English carrying 100 marks each as compulsory subject at degree level shows the proficiency of the applicant in English. As withholding the name of the applicant from the purview of consideration to the post of PGT (English) was highly illegal and arbitrary.

5. Learned Counsel appearing for both sides have reiterated their stand taken in their respective pleadings and having heard them at length, perused the materials placed on record including the Rules concerned. We are not inclined to deal with all those contentions advanced by the parties; as Rule clearly

prescribes that for promotion to PGT, one must have elective subject at Degree Level. It is trite law that the scope of the legislation or the intention of the legislature cannot be enlarged when the language of the provision is plain and unambiguous. In other words statutory enactments must ordinarily be construed according to its plain meaning and no words shall be added, altered or modified unless, it is plainly necessary to do so to prevent a provision from being unintelligible absurd, unreasonable, unworkable or totally irreconcilable with the rest of the statute-

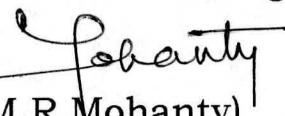
**Bhavnagar University v Palitana Sugar Mills (P) Ltd.**, (2003)2

SCC 11. Fixing the criteria of qualification is a policy decision of the Government. Judiciary ordinarily would not interfere in a matter involving policy decision-**Jitendra Kumar and others v State of Harayana and Anr**, 2008 (3) SLR 139 (SC).

When Rule clearly provides that one must have the Degree qualification on elective subject for being considered PGT which the applicant does not have and law is well settled that what should be the norm of promotion is within the discretion of the authority and as codified in the rules and in fact the rule having not been challenged in this Original Application, we find no merit in this Original Application. Besides the above, such question i.e. withdrawal of promotional benefit for lacking essential qualification in elective subject English at Master Degree, came up for consideration before this Tribunal in OA No. 167/2009 filed by

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another employee of the KVS namely C.R.Dwibedi. But this Tribunal in order dated 13<sup>th</sup> November, 2009 disposed of the matter without making any interference in the said decision of the Respondents. In view of the above, we find no merit in this OA. This OA is accordingly dismissed. Parties to bear their own costs.

  
(M.R. Mohanty)  
Vice-Chairman(J)

  
(C.R. Mohapatra)  
Member(Admn.)