

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 212 of 2012
Original Application No. 232 of 2012
Original Application No. 283 of 2012
Original Application No. 484 of 2012

FRIDAY, this the 27th day of July, 2012

CORAM:

Hon'ble Mr. Justice P.R. Raman, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

1. Original Application No. 212 of 2012 -

P.P. Remya, W/o. Premanand, aged 35 years,
 Madhavi Nilayam, Pallikkunnu PO, Kannur-670 004,
 now residing at Sapana Gardens, Flat-CB I/II,
 Chogm Road, Porvorim, Panaji,
 North Goa-403 521.

..... **Applicant**

(By Advocate – M/s K.K. Mohammed Ravuf &
Mr. Paul Kuriakose K)

V e r s u s

1. Union of India, Human Resources Development Ministry,
 New Delhi, represented by it's Secretary, Pin-110 001.

2. Kendriya Vidyalaya Sangathan, 18, Institutional Area,
 Shaheed Jeet Siingh Marg, New Delhi – 110 016,
 represented by it's Commissioner.

..... **Respondents**

[By Advocates – Mr. Thomas Mathew Nellimoottil (R1) &
M/s. Iyer & Iyer (R2)]

2. Original Application No. 232 of 2012 -

Indu Sateesh, aged 29 years, wife of Biju Kumar K.,
 residing at Kunnumadam, Eravipuram (PO), Kollam,
 Kerala, Pin – 691 011.

..... **Applicant**

(By Advocate – Mr. Johnson Gomez)

V e r s u s

1. Union of India, represented by its Secretary, Ministry of Human Resource Development, New Delhi – 110 001.
2. Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi-110 016, represented by its Commissioner.
3. Joint Secretary (CTET), Central Board of Secondary Education, New Delhi – 110 005. **Respondents**

[By Advocates – Mr. Pradeep Krishna, ACGSC (R1&3) & M/s. Iyer & Iyer (R2)]

3. **Original Application No. 283 of 2012** -

Dhanya Mol K.B., aged 29 years,
W/o. K. Sujith Kumar, Kooriyil House,
Panayur Post, Vaniyamkulam, Palakkad District,
Kerala. **Applicant**

(By Advocate – Mr. Rajesh Sukumaran)

V e r s u s

1. Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi – 110 016, Represented by its Commissioner.
2. The Joint Commissioner (Admn.), Kendriya Vidyalaya, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi – 110 016.
3. The Deputy Commissioner (Admn.), Kendriya Vidyalaya, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi – 110 016. **Respondents**

(By Advocate – M/s. Iyer & Iyer)

4. **Original Application No. 484 of 2012** -

Rakhi P., W/o. Dhaneshkumar T.V., aged 29 years, residing at Paloli House, Ashwathi, Valiyavarambu Road, PO Downhill, Malappuram, Pin 676 519. **Applicant**

(By Advocate – Mr. M.R. Hariraj)

V e r s u s

1. Kendriya Vidyalaya Sangathan, represented by its Commissioner, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi- 110 016.
2. Joint Commissioner, Administration, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi – 110 016.
3. Deputy Commissioner (Administration), Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi – 110 016.
4. Union of India, represented by the Secretary to Government of India, Ministry of Human Resource Development, Shastri Bhawan, New Delhi 110 001. **Respondents**

**[By Advocates – M/s. Iyer & Iyer (R1-3) &
Mr. Thomas Mathew Nellimoottil (R4)]**

These applications having been heard on 19.07.2012 the Tribunal on

27-07-12 delivered the following:

O R D E R

By Hon'ble Mr. K. George Joseph, Administrative Member-

Being identical in facts and issues, these Original Applications were heard together and are disposed of by this common order.

2. The Kendriya Vidyalaya Sangathan had invited applications for recruitment to the post of Trained Graduate Teachers, Primary Teachers and Miscellaneous Teaching posts for the year 2011-12. The applicant in OA No. 212 of 2012 had applied for the post of Trained Graduate Teacher and the applicants in OAs Nos. 232, 283 & 484 of 2012 had applied for the post of Primary School Teachers. Advertisement No. 2 notified by the respondents had prescribed the selection method as one consisting of the preliminary

examination, main examination and interview. The applicants were short listed on the basis of merit in the preliminary examination. While so, the 2nd respondent issued notice to the short listed candidates to pass Central Teachers Eligibility Test (CTET in short) to be conducted on 26.11.2011. By another notice the applicants were informed that interviews will be conducted to the posts notified, from 12.6.2012 onwards from among those candidates who have been short listed on the basis of the marks obtained by the candidates in the CTET. Aggrieved, the applicants have challenged the impugned orders and sought a direction to the 2nd respondent to proceed with the selection and complete the selection as per the notification No. 2 and to declare that introduction of fresh qualification in modification of the advertisement No. 2 as bad in law.

3. The applicants contended that after the selection process had been started acquisition of an additional qualification was introduced and a fresh selection procedure has been notified which are totally illegal and ultra vires of advertisement No. 2 and without any authority. The notice issued to the effect that interview will be conducted shorting listing the candidates on the basis of the marks obtained in the CTET is unsustainable and illegal because CTET test is only an eligibility test. The applicants had acquired the requisite eligibility in CTET.

4. The respondents in their reply statement submitted that on the basis of the notification preliminary examination was conducted on 12.2.2011 and candidates were short listed. Subsequently, Government of India had directed

to conduct CTET as per notice issued by the Central Board of Secondary Examination which was published in the Times of India dated 8.4.2011. The qualification of CTET is a mandatory prescription introduced by the Central Government on the basis of the Right of Children to Free and Compulsory Education (RTE) Act, 2009 which was communicated to the short listed candidates. The respondents compiled the result of the marks of the CTET of the candidates who sent their mark sheets of CTET conducted on 26.6.2011. Since the candidates had already gone through the preliminary examination and as per the Government of India notification appeared in CTET conducted by the independent reputed organization, the respondents decided that the same may be treated as the second examination as per advertisement and as per result of CTET the candidates in the ratio of 1:3 may be called for interview which was scheduled to be held on 12-26 March, 2012. It was also decided to treat CTET as the main examination and weight age of 80% may be given to CTET. Accordingly, cut off marks was fixed for the post of TGT- Primary Teacher. The applicant in OA No. 212 of 2012 had secured 93 marks in CTET held on 26.6.2011 which was below the cut off mark decided by the respondents for the post of TGT Science under the OBC category. As such she was not called for interview. The Kendriya Vidyalaya Sangathan had only followed the law in selecting the candidates. If the CTET was not in vogue the Kendriya Vidyalaya Sangathan would have carried out the selection process by calling the eligible candidates to appear in the main examination and thereafter short listed the candidates for interview. The mere replacement of the main examination with CTET would not by itself make ineligible candidates eligible for being called for interview.

5. We have heard the learned counsel for the parties and perused the records.

6. The mode of selection as per advertisement No. 2 is as follows:-

“8. Mode of selection and scheme of examination

The mode of selection shall include a written examination test/interview as per the following scheme of the examination:

i. Preliminary Examination: The test will be an objective type multiple choices of answers consisting of 150 questions for a duration of 3 hours and will carry 1 mark each, in 2 parts, as per details mentioned below:

Part - 1: The Paper will consist of 110 questions in the disciplines of general knowledge, general awareness, current affairs, general science & Indian Constitution, Reasoning, Quantitative Aptitude and Teaching Aptitude etc. The medium of the question paper will be both English and Hindi.

Part – 2: The Paper will consist of 40 questions (20 questions based on English language and 20 questions based on Hindi language) for evaluation of language competence of the candidates which will be of qualifying in nature. However, the candidate will be expected to obtain 05 marks in English & Hindi separately as well as minimum 13 marks in this paper as a whole in order to qualify the test.

Note:-for the evaluation purpose there shall be no negative marking.

ii. Main Examination : Based on the marks and merit rank secured by a candidate in Part-I of the Preliminary Examination, up to a cut off percentage as decided by KVS and those candidates who qualify in Part-2 will be called for the Main Examination. This will be of Descriptive Type Paper consisting of 120 marks for a duration of 3 hours. The medium of the question paper will be both English and Hindi (except Language papers i.e. English, Hindi)

This examination will consist of long, medium and short answer questions pertaining to subject/posts for which a candidate has applied. The questions may be recall type questions to test the conceptual understanding of the topics. A few questions on drawing interpretations from given raw data and some situational questions may also be asked to test the analytical ability and intelligence of the candidates.

iii. Interview test: While processing the final result only those candidates will be included who have obtained a pre determined cut off percentage of marks in the Main Examination. Only those candidates will be called for the interview who has secured merit rank based on the performance (above cut off percentage).

The candidates will be interviewed by a Board who will have before them a record of his career. He will be asked questions on matters of general interest and on the subject pertaining to the post applied for. The object of the interview is to assess the personal suitability of the candidate for a career in teaching profession by a board of competent and unbiased observers. The test is intended to judge the mental calibre and communication skill of a candidate.

Some of the qualities to be judged are mental alertness, critical powers of assimilation, clear and logical exposition, and balance of judgement, variety and depth of interest, leadership, intellectual and moral integrity.

The technique of the interview is not that of a strict cross-examination but of a natural, through directed and purposive conversation which is intended to reveal the mental qualities of the candidate.

The interview test is not intended to be a test either of the specialized or general knowledge of the candidates which has been already tested through their written papers. Candidates are expected to have taken an intelligent interest not only in their special subjects of academic study but also in the events which are happening around them both within and outside their own state or country as well as in modern currents of thought and in new discoveries which should arouse the curiosity of well educated youth/informed citizen.

The final merit will be based on the combined performance in the written test and interview and the weightage shall be 80:20 respectively. However, the weighted evaluation scheme in respect of misc. category of teachers such as Music teacher shall be : written test 50%; performance test 30%; and interview 20%"

7. After the preliminary examination was conducted as per the notified selection method, respondents have brought in two changes i) the CTET was treated as the second written examination as per advertisement and ii) based on the merit of CTET, candidates were called for interview scheduled from 12-26 March, 2012. The mode of selection notified in the advertisement No. 2 was changed after the preliminary examination was held. The contention of the respondents is that they have followed the law strictly in the matter of

selecting the candidates. It was done with the best intention of improving the teacher quality but in a legally untenable manner. Having completed the preliminary examination as per the notification, it was not open to the respondents to alter the mode of selection. The CTET was a qualifying examination. It was not made known to the applicants that it would be treated as competitive examination. This deprived the applicants of the opportunity to perform in a competitive manner while writing the CTET. The introduction of CTET mid way through the notified selection process was in itself questionable. In Maharashtra State Road Transport Corporation & Ors. Vs. Rajendra Bhimrao Mandve & Ors. - 2001 (10) SCC 51, the Hon'ble Supreme Court observed that rules of the game meaning thereby the criteria for selection cannot be altered by the authorities concerned in the middle or after the process of selection had been announced. In the instant case the rules of the game were changed mid way. Thus unacceptable and impermissible in law.

8. In the result, the Original Applications succeed. The impugned orders are set aside. The respondents are directed to complete the selection process in accordance with the advertisement No. 2 at Annexure A1 in OA No. 212/2012 within a period of six months from the date of receipt of a copy of this order. No posts.

**(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER**

**(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER**

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