

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 357/2009

Dated this the 13th day of July, 2010

C O R A M

HON'BLE MR.JUSTICE K. THANKAPPAN, JUDICIAL MEMBER
HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

K.B.K. Unnithan S/o N. Kesava Kurup
Vice Principal, Kendriya Vidyalaya,
Pattom II Shift, Trivandrum
residing at TC NO. 9/1688(1)
SMRA-23, Mani Bhavan Lane
Sasthamangalam, Trivandrum-10

..Applicant

By Advocate Mr. T.C. Govindaswamy

Vs

Kendriya Vidyalaya Sangathan
18-Institutional Area, Shaheed Jeet Singh Marg
New Delhi-110 016 through its Commissioner

..Respondent

By Advocate Mr. Thomas Mathew Nellimoottil

The Application having been heard on 1.7.2010 the Tribunal
delivered the following:

O R D E R

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant who is presently working as Vice Principal at
Kendriya Vidyalaya, Pattom, is aggrieved by the action of the respondent
to fill up the post of Principal by direct recruitment.



2 According to the applicant, who joined Kendriya Vidyalaya as a Trained Graduate Teacher on 30.11.1978, was appointed as Post Graduate Teacher under direct recruitment quota w.e.f. September, 1984 and further promoted to the post of Vice Principal from October, 2005 onwards. He stated that there are 899 posts of Principals in the KVS. In terms of Recruitment Rules, the posts of Principal are to be filled 66 2/3 % by direct recruitment and 33 1/3% by promotion. Promotion is to be made on merit cum seniority from amongst Vice Principals with 8 years of service of which at least 2 years should in the grade of Vice Principal. In case, suitable candidates are not available direct recruitment is provided for. The grievance of the applicant is that except for a very few vacancies all the vacancies were being filled up by the process of direct recruitment resulting in denial of lawful promotion to Vice Principals/PGTs/TGTs. Thus, at present 327 posts are filled on deputation basis against the Recruitment Rules upsetting the quota rota rules. Hence, he filed this O.A. to quash A-4 and A-5, to the extent it relates to the vacancies of Principals, direct the respondents to fill the posts by promotion of the applicant with all consequential benefits.

2 The respondents filed reply denying that they notified recruitment only against the 66 2/3% direct recruitment quota. They submitted that no direct recruitment was made in the year 2005 and 2006. They stated that during 2005 to July, 2009, 405 Vice Principals had been offered promotion and that during the period from 2000-01 to 2003-04, 340 posts were filled on deputation basis, as KVS could not fill up the vacancies by promotion as well as by direct recruitment due to non-availability of suitable candidates. The applicant was considered for promotion to the post of Principal by the DPC in its meeting held on

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17.3.2008 but found to be UNFIT. They further submitted that Vice Principals upto seniority No. 143, have been offered promotion in the unreserved category. Moreover, the debarment period for those candidates who refused promotion has also been decreased from 5 years to 1 year and as a result, many candidates already debarred for five years became now eligible for consideration for promotion.

3 The applicant filed rejoinder denying that he was found unfit and any juniors of the applicant had been promoted. He rebutted the contention of the respondents that "All most all years DPC meetings is being held." He stated that he is placed at Serial No. 149 in the seniority list and hence his turn was yet to come in 2008.

4 The respondents filed additional reply stating that the DPC which met on 27.7.2009 found the applicant again UNFIT for promotion and that Vice Principals upto seniority NO. 162 have now been promoted. They stated that 351 Vice Principals were promoted as Principals. They have annexed the minutes of meeting of the DPC held on 17.3.2008 (Annexure- R-1) and 27.7.2009 (Annexure R-2) to show that 100 vacancies upto 31.3.2009, and 12 vacancies upto 2009-10 were filled up by promotion under various categories.

5 We have heard the learned counsel for the parties and have gone through the pleadings.

6 The main contention of the applicant is that the respondents are not following the quota rota rule in the appointment to the post of Principal and that they are not convening DPC every year against

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promotion quota in accordance with the extant rules. And that they are filling up the posts by direct recruitment. The respondents have averred that they are conducting DPC meeting every year and the applicant was considered for two years but the DPC found him **UNFIT** as he did not meet the prescribed benchmark. They have also produced the minutes of the DPC meetings held on 17.3.2008 and 27.7.2009 in support of their contention, at Annexures R-1 and R-2, along with their additional reply statement. They have also stated that 340 Principals were appointed on deputation from 2005 to 2009 and 351 Vice Principals were promoted. The applicant has not contested the same.

7 The respondents submit that there are 980 KVs as on 1.4.2008 including 3 abroad. The seniority list as on 1.4.2008 produced by the applicant at A-3 shows that there are 833 Principals in position till 2007. It is seen that from the year 1987 to 2004, there were more direct recruits possibly due to the fact that there were no eligible candidates to be promoted and perhaps many KVs were established during those years, necessitating direct recruitment. The respondents have submitted that during 2000-01 to 2003-04, 340 Principals were appointed on deputation due to non-availability of eligible candidates for promotion. Also it is a fact that the deputationists went before various judicial fora in the country and got orders in their favour, against repatriation to their parent organisations. Therefore, to maintain quota rota from 2004 to mid 2007, 251 appointments as per the seniority list at Annexure A-3 were made only by promotions, excepting 12 direct recruits in 2004. Since 12, 6 and 7 officials in year 2001, 2002 and 2003 respectively were promoted as Principals according to Annexure A-3, it is established that DPC meetings were held for the eligible candidates

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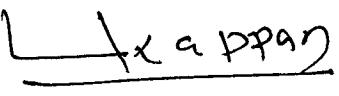
regularly from the year 2001. The respondents submit that as on date, the permissible quota of 33 1/3% for promotees stands exceeded.

8 In the result, we do not find any merit in the O.A. It is dismissed. No costs.

Dated the 13th July, 2010


K. NOORJEHAN
ADMINISTRATIVE MEMBER

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JUSTICE K. THANKAPPAN
JUDICIAL MEMBER

20