

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. No. 177/90  
F.A. No.

198

DATE OF DECISION 21.8.1991

Smt. Savitaben C. Parmar

Petitioner

Shri G.S. Walia.

Advocate for the Petitioner(s)

Versus

Asstt. Director of Education, Silvassa & Ors.

Respondent

Shri A.S. Rao.

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. U.C. Srivastava, Vice-Chairman,

The Hon'ble Mr. M.Y. Priolkar, Member(A).

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

(M.Y. PRIOLKAR)  
MEMBER(A).

(8)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, BOMBAY.

Original Application No.177/90.

Smt.Savitaben C.Parmar.

... Applicant.

V/s.

Asstt. Director of Education,  
Silvassa, and Others.

... Respondents.

Coram: Hon'ble Vice-Chairman, Shri U.C.Srivastava,  
Hon'ble Member(A), Shri M.Y.Priolkar.

Appearances:

Applicant by Mr.G.S.Walia.  
Respondents by Mr.A.S.Rao.

Oral Judgment:-

(Per Shri M.Y.Priolkar, Member(A)) Dated: 21.8.1991.

The applicant in this case was initially appointed as a 'BAL SEVIKA' in the Dadra and Nagar Haveli, Union Territory and later on absorbed as a Primary School Teacher on 8.6.1981. By order dated 30.8.1988 she was posted to teach temporarily at High School at Village Rakholi. Her grievance is that by order dt. 5.3.1990, Respondent No.5 has been posted in her place and she was transferred again as a Primary School Teacher. The respondents in the written reply have stated that the order dt. 30.8.1988 was a temporary arrangement on account of shortage of teaching staff in the High School. They have also stated that as on the date of interview for the regular selection to the post of Assistant Teacher Hindi in the High School the applicant was over-aged and, therefore, she was not called for the interview. It has also been averred by the respondents that for appointment/promotion to the post of Hindi teacher, Primary School Teachers who were having the principal subject as Hindi at Graduation level or Post-Graduate level with technical qualification of B.Ed. were considered for promotion under the Centrally sponsored scheme under which the post is created.


2. The learned counsel for the applicant argued that it will not be proper to give any <sup>new</sup> ~~evidence~~ <sup>by</sup> to this statement made in the affidavit in reply filed by the respondents unless the relevant recruitment rules are produced before the Tribunal. Admittedly, the applicant passed her Graduation with Economics as special subject. We have also no reason to dis-believe the statement in the reply of Respondent No.5 who has been selected by regular D.P.C. that she ~~has~~ passed her degree examination with special subject Hindi and has also acquired B.Ed. qualification. Even if regular recruitment rules have not been framed for the posts in this centrally assisted scheme for teaching Hindi, we are of the view that it is fair and reasonable that a person with a qualification of Hindi as a special subject at the graduation level should obviously be preferred to a candidate whose qualification is Graduation with special subject as Economics at the Graduate level and it is not even known whether Hindi was one of the other subjects or not. No categorical reply was forthcoming from the learned counsel for the applicant to our query whether the applicant had at least offered Hindi as one of the other subjects when she passed her B.A. examination with Economics as a special subject.

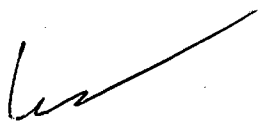
3. While dictating this Judgment, the learned counsel for the applicant said that he was making a statement on the basis of the instructions received by him now that even the selected candidate i.e. R-5 does not have the qualification which she is stated to possess. However, the written statement of R-5 was filed on 17.4.1990 to which there has been no rejoinder and it was not <sup>disputed</sup> ~~at~~ any time earlier by the applicant. It will not be possible for us to take into account a statement being made to day at the

...3.

time of final hearing when we are disposing of this application. Counsel for the applicant also stated that the applicant has not been served a copy of this written statement by R-5. However, we have been shown the proceedings of the DPC meeting held on 19.2.1990 in which R-5, who has been selected, has been shown as B.A. (Hindi) B.Ed.

4. In view of the above, we have no reason to dis-believe that the selected candidate viz. R-5 is B.A. with special subject as Hindi while the applicant is only B.A. in Economics as special subject and it is doubtful whether the applicant had taken Hindi as one of her other subjects at B.A. level. Since the selected candidate is to teach Hindi at the Secondary School level, evidently a person with special subject Hindi at the degree level should be preferred for this post. We do not therefore, see any merit in this application which is rejected. No order as to costs.

  
(M.Y. PRIOLKAR)  
MEMBER(A)

  
(U.C. SRIVASTAVA)  
VICE-CHAIRMAN.

B.S.M.