

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 733 of 1999

Jabalpur, this the 31<sup>st</sup> day of November, 2003.

Hon'ble Mr. Shanker Raju, Judicial Member  
Hon'ble Mr. Sarveshwar Jha, Administrative Member

Nand Kishore Kori S/o Late Shiv  
Ratan Kori, 50 years, R/o.  
House No.412, Narghia Road,  
Galgala, Tilak Ward, Jabalpur

APPLICANT

(By Advocate - Shri S.K. Nagpal)

VERSUS

1. Union of India,  
Through: The Secretary,  
Govt. of India, Ministry of  
Defence, Deptt. of Defence  
Production, New Delhi.
2. Director General, Ordnance  
Factories, Ordnance Factory Board,  
6, Esplanade East, Calcutta-69.
3. Senior General Manager,  
Vehicle Factory, Jabalpur
4. Smt. M.Guchhait  
Head Mistress,  
VFJ Primary School,  
Vehicle Factory, Jabalpur
5. Smt. Pushpa Agarwal, TGT  
High School, Ordnance Factory,  
Itarsi.

RESPONDENTS

(By Advocate - Shri S.C. Sharma)

ORDER (ORAL)

By Sarveshwar Jha, Administrative Member -

The applicant has impugned letter of the respondents dated 25.9.99 placed at Annexure-A to the OA whereby his representation for promotion to the post of Head Master against post reserved for Scheduled Caste(SC) has been rejected. Accordingly he has prayed that the proceedings of DPC held on 29.9.97 be quashed and that the respondents Nos. 1 to 3 be directed to him to convene a fresh DPC to consider for promotion to the post of Head Master Primary School.

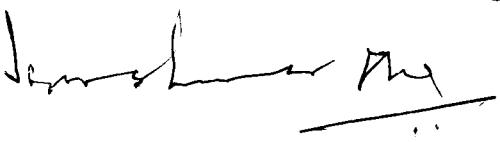
2.

The facts of the matter, briefly, are that the

applicant has been working as a teacher since 1979 in the schools run by the Ordnance Factory Organisation and he belongs to SC category. He has claimed that he possesses the degree of M. Com and B.Ed and is, therefore, qualified to be considered for promotion to the post of Head Master (Primary) in Central Region having a number of schools situated in the Region. In the instant case, a vacancy in the post of Head Master arose due to the promotion of one Smt. R.P. Sumand, an ST candidate, and the same, according to him, should have been filled by promoting an SC candidate. He, being an SC candidate and also being senior, should have been promoted against the said post. However, this post has been filled by appointing one Smt. M. Dass initially on officiating basis and subsequently by appointing Smt. M. Guchhait, on regular basis, later being a general category candidate. The applicant has therefore, alleged that the said post has been filled without considering his claim.

3. It is observed that he approached this Tribunal earlier also vide OA No. 32/99 which was decided on 16.6.99 with the direction to the respondents to consider and decide his representation within a period of 3 months from the date of communication of the said order. In the event of the applicant being aggrieved with the reply of the respondents, he was given liberty to approach the Tribunal. The respondents disposed of the representation of the applicant dated 9.11.1998 and also the legal notice of the applicant submitted earlier, and the same have been done on the ground that he does not possess the requisite qualifications for the said post and as such his case was not considered by the DPC held on 29.9.97.

4. He has also reproduced the requisite qualifications as conveyed to him by the respondents, in paragraph 4.4 of his

  
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OA. It is observed that Post Graduate or equivalent degree from a recognised university, Degree/Diploma in Teaching Education from a recognised institution, and atleast 5 years regular full time taching/administrative experience from a recognised school are the requisite qualifications. It also provides for competence to teach both English and Regional language. However, the applicant has submitted that, while the post should have been filled by promoting an SC candidate as it had been vacated by an SC candidate, he also possesses the requisite qualifications, as explained in Paragraph 4.5 to 4.6 of his OA. He also claims that his record as a teacher has been good, as he had not received any adverse CR during the period in question. However, it was only after he had submitted a representation against the promotion of Smt. M. Guchhait that he received a communication conveying adverse CR for the period of 1997-1998. He has also alleged that it has been done to spoil his record and to deprive him of his legitimate claim for promotion.

5. However, the respondents have clarified that the post was not reserved and that the selection was done on the basis of central seniority list of primary school teachers and subject to their performance as teachers. They have also mentioned that the applicant did not possess the requisite qualifications for promotion as per his service record and it was for this reason that he was not considered by the DPC held in the year 1997. It is quite surprising that the applicant has given very clear proof of the fact that he is M.Com and B.Ed (Annexure A-16 and also Annexure A-17). It is possible that he acquired these qualifications later and did not provide the same to the respondents as to form part of his record. The respondents have informed in paragraph 4 of their reply that information relating to the applicant having acquired these qualifications has not been provided

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by him to them. Of course, they have made a reference to also the fact that the applicant did not obtain the required permission from the Department for acquiring higher qualifications.

6. During the course of arguments and discussion it was observed that it was a single vacancy in the grade and therefore the instructions relating to reservations were not applied to this post. It was in any case emphasised by the respondents that the post of Head Master (Primary) in question was not reserved and, therefore, the question of the applicant claiming the benefit of reservation in consideration for promotion to the said post did not arise. It is, however, imagined that the applicant fulfilled the requisite qualifications and the same was not known to the respondents. There is, therefore, a grave communication gap between him and the Department. The fact that the respondents have admitted that the applicant did not inform them about his having acquired higher qualifications indicates that they do admit that the applicant possesses requisite qualifications, though not, available on their record. Under these circumstances, it would be unreasonable not to give benefit of these qualifications to the applicant in the matter of his consideration for promotion to the post of Head Master (Primary). However, as the post in question has already been filled following the procedure and the recruitment rules for the <sup>not</sup> post, it would be appropriate to undo the same or to reconsider the same.

7. Under the facts and circumstances of the case and keeping in view the available materials on record and after hearing the learned counsel for both the sides, we are, therefore, of considered opinion that ends of justice will be met if this OD is allowed with directions to the respon-

*Constitutional*

dents to consider the applicant, keeping in view his qualifications, as submitted by him for promotion to the post of Head Master (Primary) against the next available vacancy. The OA thus stands disposed of in terms of the above directions. No order as to costs.

Sarveshwar Jha

(Sarveshwar Jha)  
Administrative Member

S. Raju

(Shanker Raju)  
Judicial Member

SKM

प्राप्ति सं अ/सा..... नो. पर. नि.....

(1) श्री स. क. नागपाल अद्व. ज्प.

(2) श्री स. च. शर्मा अद्व. ज्प.

सूची का अनुच्छेद का. दो. दो.

Shree Gaurav  
9.12.03

SKM  
9.12.03