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**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

13.02.2012

OA No. 561/2011

Mr. Vinod Goyal, Counsel for applicant.

Heard. The OA is disposed of by a separate order.

Anil Kumar
(Anil Kumar)

Member (A)

K.S.Rathore
(Justice K.S.Rathore)
Member (J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 13th day of February, 2012

Original Application No.561/2011

CORAM:

**HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)**

1. Anshuman Sharma
s/o Shri Vinod Kumar Sharma
r/o 130, UIT Colony,
Near Community Centre,
Kunadi, Kota.
2. Deepika Jain
d/o Shri P.C.Jain
r/o 55, Adarsh Nagar,
Kunadi, Kota.

.. Applicants

(By Advocate: Shri Vinod Goyal)

Versus

1. The Union of India,
through Secretary,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi.
2. Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi.

3. National Council for Teacher Education
through Regional Director,
A-46, Shantipath,
Tilak Nagar,
Jaipur

.. Respondents

(By Advocate:

O R D E R (ORAL)

By way of present OA, the applicants seek relief in the nature of order or direction directing the respondents to complete the process of selection as per the scheme given in advertisement irrespective of qualifying Central Teacher Eligibility Test (CTET) imposed during the process of selection.

2. Brief facts of the case are that the respondent Kendriya Vidyalaya Sangathan (KVS) invited applications from Indian citizens for recruitment to the posts of Trained Graduate Teachers, Primary Teachers and Miscellaneous Teaching Posts (MTPs) for the year 2011-2012. The mode of selection and scheme of examination was given in the advertisement that the process of recruitment was of three stages – i) Preliminary Examination, ii) Main Examination and iii) Interview. It was also mentioned that those candidates who qualify the screening test upto cut off percentage as fixed by the KVS will be eligible for main examination. Thereafter those candidates were to be called for the interview who had secured merit rank based on



performance. The last date for submitting application was 30.11.2010.

3. Pursuant to the advertisement Ann.A/1, the applicants applied for the post of Primary Teacher and appeared in the preliminary examination. They were declared eligible for main examination subject to qualifying the CTET vide letters dated 20.4.2011 (Ann.A/2 and A/3)

4. Bare perusal of letters dated 20.4.2011 reveals that the applicants qualified the screening test held on 12th February, 2011 and as per the provisions of sub-section (1) of Section 23 of the RTE Act, the Government of India vide notification dated 23rd August, 2010 has laid down the minimum qualification for appointment as a teacher to teach classes I to VIII and the candidates should pass the CTET which will be conducted by the Government in accordance with the guidelines framed by the National Council for Teacher Education (NCTE). The Govt. of India has entrusted the responsibility of conducting the CTET to the Central Board of Secondary Education (CBSE) which will be applicable to the KVS also. Therefore, the applicants were required to apply and qualify the CTET scheduled to be held on 26th June, 2011 as per the terms and conditions of the CBSE published in the Newspaper dated 8th April, 2011 to become eligible for the main examination being conducted by the KVS for the said post.



5. It is not disputed that pursuant to letters dated 20.4.2011 the applicants appeared in the CTET but could not pass the test which is the pre-requisite condition for appointment on the post of Teacher. Since the applicants failed to clear the eligibility test, therefore, the OA has been filed challenging the process of selection. The applicants after appearing and declaring failed in the eligibility test (as is evident by Ann.A/4 and A/5, which is result mentioning that they have not qualified), cannot challenge the same in view of the law laid down by the Hon'ble Supreme Court in number of decisions.

6. In the case of Dr. G.Sarana vs. University of Lucknow and ors. reported in 1976 (3) SCC 585 the Hon'ble Supreme Court held that the candidate who participated in the selection process cannot challenge the validity of the said selection process after appearing in the said selection process and taking opportunity of being selected.

7. In the case of K.H.Siraj vs. High Court of Kerala and others reported in JT 2006 (11) SC 424 it was held that the candidates who participated in the interview with knowledge that for selection they had to secure prescribed minimum marks, on being unsuccessful in interview, could not run around and challenge that the said provision of minimum marks was improper and the said challenge is liable to be dismissed on the ground of estoppel.

8. In Union of India and ors. vs. S. Vinodh Kumar and others reported in 2007 (8) it was held that it is also well settled that those



candidates who had taken part in the selection process knowing fully well the procedure laid down therein were not entitled to question the same.

9. Similar view has been taken by the Hon'ble Supreme Court in the case of Vijendra Kumar Verma vs. Public Service Commission, Uttarakhand and ors., JT 2010 (11) SC 111.

10. In view of the ratio decided by the Hon'ble Supreme Court, as aforesaid, we find no merit in this OA and therefore, no interference whatsoever is required at this stage. Consequently, the OA stands dismissed in limine without issuing notices to the respondents.

Anil Kumar
(ANIL KUMAR)
Admv. Member

K. S. Rathore
(JUSTICE K.S.RATHORE)
Judl. Member

R/