

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

Chandigarh, this the 20th day of October, 2015

OA. No. 060/01033/2014

**CORAM: HON'BLE MRS.RAJWANT SANDHU, MEMBER (A)
HON'BLE DR. BRAHM A.AGRAWAL, MEMBER (J)**

Garima, aged 23 years, D/o Sh. Ramesh Kumar, resident of House No. 2089, Sector 27-C, Chandigarh.

.....Petitioner

BY ADVOCATE: **Sh. R.K. Sharma**

VERSUS

1. Union Territory, Chandigarh Administration through Advisor to Administrator.
2. Education Secretary, Union Territory, Chandigarh Administration, Sector 9, Chandigarh.
3. Director Public Instructions (Schools), Union Territory, Chandigarh Administration, Sector 9, Chandigarh.

.....Respondents

BY ADVOCATE: **Sh. Aseem Rai, counsel for respdts. No.**

1-3.

None for NCTE.

ORDER

HON'BLE MRS. RAJWANT SANDHU, MEMBER(A):-

1. This OA has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief(s):-

(i) Quash advertisement which appeared in the Newspaper "The Tribune" dated 2nd November, 2014 and also on the website of the Department (Annexure A-1), issued by Education Department, Chandigarh Administration to the extent restricting the eligibility of the candidates for the post of Junior Basic Teacher (GBT) by laying down educational qualification as Graduation and also quash Mode of Selection to the extent 25

As —

marks have been earmarked for the subject of Punjabi only for multiple choice questions, without including Hindi in Paper 2 which is National language and first language in UT Chandigarh, thus depriving candidates straightway of 25 marks who have acquired qualification in Hindi medium, being arbitrary and discriminatory.

- (ii) Issue declaration to the effect that applicant is eligible for selection and appointment to the post of JBT teacher in UT Chandigarh in terms of eligibility criteria as laid down by National Council for Teacher Education (NCTE) in notification dated 23.08.2010 (Annexure A-9) and that the Recruitment Rules framed by the Chandigarh Administration in the year 1991, as amended in 2001 and 2004 are not enforceable to the extent these are repugnant to the notification of eligibility issued by NCTE by virtue of notification dated 23rd August, 2010.
- (iii) Issue directions to the respondents to adopt reasonable mode of selection including both the languages for Paper 2.
- (iv) Issue directions to respondents to entertain the application of the applicant and consider her candidature treating her eligible for the post of Junior Basic Teacher (JBT).

2. Averment has been made in the OA that the applicant passed 10 + 2 in 2009 and had acquired Diploma in Education from the Board of School Education, Haryana in 2014. The applicant had also qualified the Central Teacher Eligibility Test (CTET) in September, 2014 and hence, the applicant was eligible for appointment to the post of Junior Basic Teacher (JBT).

3. The Chandigarh Administration framed its Recruitment Rules for various posts including the JBTs on 15.02.1991 which were amended from time to time. As per the last amendment vide Notification dated 08.04.2004, Graduation or its equivalent from a recognized University with at least 40% marks had been prescribed as academic qualification for appointment to the post of JBT. The action of the respondents in issuing advertisement restricting the

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eligibility of the candidates for the post of Junior Basic Teacher (GBT) by laying down educational qualification as Graduation and also mode of selection to the extent of 25 marks have been earmarked for the subject of Punjabi only for multiple choice questions, without including Hindi in Paper 2, is discriminatory, harsh, illegal, arbitrary, violative of principles of natural justice, unsustainable in the eyes of law and thus liable to be quashed with declaration to the effect that applicant is eligible for selection and appointment to the post of GBT in UT Chandigarh in terms of eligibility criteria as laid down by NCTE in Notification dated 23.08.2010(Annexure A-9) and that the Recruitment Rules framed by the Chandigarh Administration in the year 1991 as amended in 2001 and 2004 are not enforceable to the extent these are repugnant to the notification of eligibility issued by NCTE by virtue of notification dated 23rd August, 2010. Hence this

OA.

4. In the written statement filed on behalf of the respondents No. 1-3, it has been stated that the applicant has no valid cause of action to challenge the advertisement dated 02.11.2014 (Annexure A-1) issued by the answering respondents. As far as the eligibility norms set by the NCTE are concerned, those are to be read as the minimum permissible educational qualification for consideration as appointment as GBT. It is stated that it cannot be implied that the respondent Administration will be debarred from prescribing a criteria which is higher than the prescribed minimum and it is wrong to suggest that the provisions of 1991/2001/2004 Recruitment Rules

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(Annexure A-4 colly.) are repugnant to the norms laid down by NCTE.

The contentions raised by the applicant are no longer res integra.

The Apex Court in the case of **Basic Education Board U.P. Vs. Upendra Rai, 2008(3) SCC 432** has upheld the right of the State

Government in determining the eligibility condition for recruitment of

teachers for various educational institutions after categorically

examining the jurisdiction of NCTE on the subject. It has been held

that the Regulations framed by the NCTE as amended from time to

time only prescribe minimum academic and professional

qualifications for teachers to be recruited in different educational

institutions. Those Regulations do not preclude the right of the State

Government to prescribe additional qualifications of eligibility criteria

for selecting good quality teachers out of large number of applicants

who might come forward to seek employment. This aspect has

further been elaborated by the Hon'ble Punjab and Haryana High

Court while deciding CWP No. 17449 of 2008 titled **Vijay Kumar and**

Ors. Vs. State of Haryana & Ors. and connected matters vide a

detailed order dated 29.11.2010.

5. Regarding the aspect of earmarking 25 marks for the subject of Punjabi, it is stated that three languages i.e. Hindi, Punjabi

and English are taught to the students upto Class 8th in the schools

being run by the respondent Department. Hindi or Punjabi are to be

either the first or second languages whereas English is the third

language. Not only written test in the language of Punjabi is being

conducted, component of Hindi and English Language in Paper I is

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also part of the selection process. A single JBT is required to teach these three languages in each section upto Class Vth. However, it may be clarified that knowledge of Punjabi has not been laid down as an eligibility criteria. Meaning thereby, a person not knowing Punjabi will not be rendered as ineligible for the purpose of consideration/selection as JBT. Proficiency in said language will only allow an added preference over the others, given the fact that the selected JBT is required to impart education in Punjabi as well. Such preference/classification is reasonable and with sound rationale and cannot be faulted with.

6. In the short reply filed on behalf of respondent No. 3, it has been stated that NCTE has laid down the minimum qualifications for a person to be eligible as a teacher vide its Notification dated 03.08.2010 (Annexure A-9). This had been amended vide Notification dated 29.07.2011 (Annexure A-11). From the bare reading of Section 23(1) of "The Right of Children to Fee and Compulsory Education Act 2009", Notification dated 31.3.2010 issued by the Central Government and notifications Annexures A-9 and A-11 issued by the Central Government, and notifications Annexures A-9 & A-11 issued by the answering respondent as well that the qualifications prescribed by the answering respondent as "minimum", no State Government/UT can dilute the said minimum qualifications, the same being mandatory. However, the State Governments/UTs are free to prescribe higher qualifications than prescribed by the answering respondent provided the higher qualifications so framed

Ans

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are not inconsistent with the qualifications prescribed by the answering respondent.

7. When the matter came up for consideration today, learned counsel for the respondents No. 1-3 stated the issue regarding validity of the Recruitment Notice issued by the Chandigarh Administration for recruitment of JBTs (Annexure A-1) on the aspect of qualifications prescribed being higher than those prescribed by NCTE, had been decided vide judgement dated 08.10.2015 in TA No. 060/00011/2015 (CWP No. 23715/14) titled **Manoj Kumar Vs. UT Chandigarh** wherein it had been held as follows:-

“16. However, we note that through this OA, the applicant has neither impugned the Chandigarh Education Service (School Cadre) (Group ‘C’) Recruitment Rules, 1991 as amended vide Notification dated 25.07.2007 nor has he impugned the Recruitment Notice (Annexure P-6). The Recruitment Notice prescribing the eligibility criteria for candidates aspiring to be selected as JBTs for appointment with the Chandigarh Administration is in accordance with the Notification of 25.7.2007. Moreover, although the NCTE had prescribed the qualifications for the post of JBT through its guidelines issued vide Notification dated 29.7.2011, the title speaks for itself as the words “Minimum Qualifications” are used. Hence, the conclusion is inevitable that while no person can be appointed as JBT who does not fulfil the minimum educational qualification criteria prescribed by the NCTE vide Notification dated 29.7.2011, there is nothing in the guidelines issued by the NCTE to support the contention of the applicant that higher educational criteria cannot be prescribed. While Section 23(i) of the Right of Children to Free and Compulsory Education Act, 2009 states that any person possessing such minimum qualifications as laid down by an academic authority authorized by the Central Government by Notification, shall be eligible for appointment as a teacher, again, there is nothing to compel a State Government or UT Administration or any other competent authority entrusted with the recruitment of teachers to stick with this minimum qualification criteria and to bar such authority from prescribing higher qualifications for selection of teachers.

17. It must also be appreciated here that the NCTE has prescribed the minimum qualifications for appointment of JBTs for

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the country as a whole while keeping the general educational standards and qualifications of persons in view. While in some States/UTs, the level of education may be lower and well-qualified persons may not be available for appointment as teachers, but in an area such as the UT Chandigarh, educational attainment of the population of the UT and the surrounding States is quite high. So are the expectations from the teachers who are appointed to teach the children of the UT. Since well-qualified persons are available in the UT Chandigarh and surrounding States, there can be no objection to the UT Administration prescribing higher eligibility criteria for selection as JBTs than the minimum qualifications prescribed by the NCTE vide Notification dated 29.7.2011 as this is in the interest of selecting better qualified persons as teachers and resultantly improving the quality of education imparted to the children of the UT. Hence, we conclude that since the applicant did not fulfil the eligibility criteria as per the Recruitment Notice (Annexure P-6), he is not eligible to be considered for selection as JBT with Chandigarh Administration. The OA is rejected. No costs."

Learned counsel stated that keeping in view the judgement in Manoj Kumar (supra), there was no merit in the present OA.

8. Learned counsel for the applicant has also been heard in the matter.

9. Since the main prayer of the applicant that the qualification of Graduation prescribed for recruitment of JBTs must be quashed as this is not in accordance with the NCTE Guidelines of 2011, has already been disallowed vide judgement dated 08.10.2015 in Manoj Kumar (supra); this prayer made in the present OA is also rejected. Since the applicant, not being a Graduate, would not be eligible for selection as JBT in the Education Department, Chandigarh Administration, we do not deem it necessary to adjudicate on the prayer regarding subject of Punjabi having been assigned 25 marks in Paper 2 without including Hindi subject in the same. u

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10. With the above observations, the OA stands disposed of.
No costs.

Rs. -/-
(RAJWANT SANDHU)
MEMBER(A)

B. A. Agarwal
(DR. BRAHM A. AGRAWAL)
MEMBER(J)

Dated: 20.10.2015

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