

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH
CHANDIGARH**

O.A. No.060/01095/2014

Pronounced on: 15.12.2015

Reserved on: 08.12.2015

Coram: **Hon'ble Mr. Sanjeev Kaushik, Member (J)**
Hon'ble Mrs. Rajwant Sandhu, Member (A)

Sukesh Kumar son of Shri Parkash Chand, resident of House No. 701/15, Bapu Dham colony, Sector 26, Chandigarh.

.....**Applicant**

Versus

1. Union of India, through Secretary, Ministry of Home Affairs, North Block, New Delhi -110001.
2. Union Territory, Chandigarh through Education Secretary, U.T. Chandigarh, Deluxe Building, Sector 9, Chandigarh.
3. Director Public Instructions (S), U.T. Chandigarh, Additional Deluxe Building, Sector 9, Chandigarh.
4. Government College of Education, Sector 20-C, U.T. Chandigarh through its Principal.
5. National Council of Teachers Education, NCTE, Hans Bhawan Wing II, I, Bahadur Shah Zafar Marg, New Delhi -110002.
6. Human Resources & Development, Government of India, New Delhi, through its Secretary.

.....**Respondents**

Present: Mr. J.R. Syal, counsel for the applicant

Mr. Ram Lal Gupta, counsel for Respondents No. 1 & 6

Mr. Arvind Moudgil, counsel for Respondents No. 2 to 4

Ms. Neeru Bansal, proxy counsel for Mr. Ashish Rawal,
counsel for Resp. No. 5

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Order (Oral)

By Hon'ble Mrs. Rajwant Sandhu, Member(A)

1. This O.A. has been filed under Section 19 of the Administrative Tribunal Act, 1985 claiming the following reliefs:-

"(i) That this Tribunal may quash the advertisement dated 03.11.2014 (Annexure A-1) as well as the amendment in the Recruitment Rules in the year 2007 to the extent different qualifications having been prescribed for the post of Master/Mistresses (TGT) in violation of the qualifications prescribed by the NCTE vide notification dated 23.08.2010 (Annexure A-8).

(ii) That this Tribunal may direct the respondents to consider the applicant as eligible for the post of Master/Mistress (TGT) and to consider his candidature for selection and appointment to the said post.

2. Averment has been made in the O.A. that the applicant, who belongs to SC category, has the qualifications with details of marks as under:-

Sr. No.	Examination passed	Marks obtained	Percentage of marks
1.	10+2	251/500	50.1%
2.	B.A.	1114/2000	46.41%
3.	B.Ed.	633/1000	63.3%
4.	CTET	86/150	57.33%

The applicant had cleared the Central Teacher Eligibility Test (CTET) held in January, 2012 and obtained 57.33 % marks. Copies of the certificate are collectively annexed (Annexure A-4). The qualifications for the post of Master/Mistress (TGT) have been provided in the Rules called the Chandigarh Education Service (School Cadre) (Group-C) Recruitment Rules, 1991, as amended from time to time. A notification bearing No. DPI-UT-SI-11(12)-1995 dated 25.07.2007, was issued amending these Rules (Annexure A-7). While issuing recruitment notice (Annexure A/1) for the post of Master/Mistress (TGT), the essential qualification was prescribed as under:-

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"Social Studies

(A)(i) Graduate with at least 50% marks and has any two of the following seven elective subject from a recognized university.

History, Geography, Pol Sc., Economics, Sociology, Psychology & Public Administration.

(ii) Degree of Bachelor of Education or its equivalent from an Institute recognized by NCTE with two relevant teaching subjects with at least 50% marks in aggregate.

(iii) Pass in Teacher Eligibility Test (TET) conducted by the CBSE New Delhi in accordance with the Guidelines framed by the NCTE is compulsory

OR

(B) 4 years integrated B.Sc., B.Ed. or an equivalent course with Social Science with at least 50 % marks in aggregate.

Pass in Teacher Eligibility Test (TET) conducted by the CBSE New Delhi in accordance with the Guidelines framed by the NCTE is compulsory.

"Hindi

- (i) Graduate or its equivalent from a recognized University with Hindi as an elective subject with at least 50% marks.
- (ii) Bachelor of Education Degree recognized by NCTE with at least 50 % marks in aggregate or its equivalent with Hindi as teaching subject.
- (iii) Pass in Teacher Eligibility Test (TET) conducted by the CBSE New Delhi in accordance with the Guidelines framed by the NCTE is compulsory."

The applicant has qualification of B.Ed. from a recognized University with 63.3% marks. The applicant also obtained 57.33 % marks in the CTET held in January, 2012. The applicant is thus fulfilling the essential qualifications for the post, but is lacking in as much as he is not having 50% marks in the Graduation from a recognized University.

3. It is further stated that the National Council for Teacher Education, issued a notification bearing F. No. 61-03/20/2010/NCTE(N&S) dated 23.08.2010 (Annexure A-8), in exercise

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of the powers conferred by sub-section (1) of Section 23 of the Right of Children to Free and Compulsory Education Act, 2009, prescribing the minimum qualification for the post of Masters/Mistresses (TGT) as under:-

Classes VI-VIII

(a) BA/B.Sc. and 2 year diploma in Elementary Education
(by whatever name known)

OR

BA/B.Sc. with at least 45% and 1 year Bachelor in Education (B.Ed.) in accordance with the NCTE (Recognition Norms and Procedure) Regulations issued from time to time in this regard.

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4 year Bachelor in Elementary Education (B.Ed.)

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4 year BA/B.Sc. Ed. Or B.A.Ed/B.Sc. Ed.

OR

BA/B.Sc. with at least 50 % marks and 1 year B.Ed.
(Special Education)

And

(b) Pass in the Teacher Eligibility Test (TET), to be conducted by the appropriate Government in accordance with the Guidelines framed by the NCTE for the purpose." *Al* _____

Since the minimum qualification prescribed for the post of Masters/Mistresses (TGT) as per NCTE norms is 45% and one year Bachelor of Education in accordance with NCTE Regulations issued from time to time in this regard, the Education Department of the Chandigarh Administration cannot prescribe the percentage of marks in B.A. to be 50% as the percentage of marks in B.A. Examination prescribed by the Chandigarh Administration in Education Department are at variance with those so prescribed under the notification dated 23.8.2010. The educational qualification so prescribed to be 50% in B.A. by the Recruitment Rules of 1991, as amended in the year 2007 by the Education Department is not sustainable, in as much as, the NCTE prescribed the percentage of marks to be 45%. The applicant applied online for the post of Master/Mistress (TGT) vide application dated 26.11.2014 in response to the Recruitment notice (Annexure A-9). Thereafter, the applicant visited the office of Respondent No. 4 to confirm about the acceptability of his application but he was informed that in view of the advertised qualifications, he was not eligible as he did not have 50% marks in the BA Examination. Hence this O.A.

4. In the grounds for reliefs, it has inter-alia, been stated as follows:-

(i) The fact that the advertised qualifications are against the qualifications prescribed by the NCTE vide their notification dated 23.08.2010 (Annexure A-8). The qualifications prescribed by the NCTE are to be followed by all the Schools in view of the notification dated 31.03.2010 (Annexure A-12) whereby the Central Government in exercise of the powers conferred by sub-section (1) of Section 23 of the Right of Children to Free and Compulsory Education, Act, 2009 have authorized the National Council for Teacher Education as the 'Academic Authority' to lay down the minimum qualifications for a person to be eligible for appointment as a teacher. Therefore, advertisement (Annexure A-1) is liable to be set-aside.

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(ii) The Chandigarh Administration has failed to take into consideration the Right of Children to Free and Compulsory Education Act, 2009 and the NCTE Act, 1993 (as amended up-to-date). Once the Central Government has declared the NCTE to be an Academic Authority under Section 23 of the RTE Act, 2009, it was incumbent upon the Chandigarh Administration to modify the qualifications for the post of Masters/Mistresses (TGT) in their Recruitment rules in consonance with the qualifications prescribed by the NCTE.

(iii) Because of the fact that the provisions of RTE Act, 2009, and the NCTE Act, 1993 (as amended up to date) would prevail over the Rules framed by the Chandigarh Administration and as such, the qualification prescribed in the Rules is not sustainable.

5. When the matter was taken up for hearing on admission on 04.12.2014, the applicant was allowed to participate in the selection process, subject to the outcome of the O.A.

6. In the written statement filed by Respondents No. 2 to 4, it has been stated that the Recruitment notice (Annexure A-1), which is under challenge in the present O.A., has been issued by the answering respondent under the Chandigarh Education Service (School Cadre) (Group C) Recruitment Rules, 1991 as amended from time to time. These rules are framed by the Administrator, Chandigarh Administration, exercising the powers conferred on him by the provisions of Article 309 of the Constitution of India. As such, the recruitment notice, which has been impugned in the present O.A., is issued under the Chandigarh Education Service (School Cadre) (Group "C") Recruitment Rules, 1991 as amended from time to time. In the present O.A., the applicant has neither challenged the power of the concerned authorities to frame the Rules to regulate the recruitments in the State nor has challenged the notifications vide which amendments have been made in the essential qualifications for the post of TGT under

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Chandigarh Education Service (School Cadre Group "C") Recruitment Rules, 1991.

7. It is further stated that the Chandigarh Education Service (School Cadre) (Group "C") Recruitment Rules 1991 (Annexure A-5) were framed vide notification dated 06.02.1991 to regulate the method of recruitment to Group-C posts in the Education Services (School Cadre). Vide notification dated 10.03.2009, the Chandigarh Education Service (School Cadre) (Group "C") Recruitment Rules 1991 were further amended (Annexure R-6). The notification dated 23.08.2010 (Annexure A-8) has been issued by the National Council for Teacher Education. This only provides the minimum qualification for a person to be eligible for appointment as Teacher. It does not provide any bar for any competent authority under a Statute to fix a higher qualification other than what has been prescribed under the notification issued by the National Council for Teacher Education. Therefore, the recruitment notice issued under Chandigarh Education Service (School Cadre) (Group "C") Recruitment rules, 1991, as amended from time to time, prescribing the essential educational qualification for direct recruitment for the post of Masters/Mistresses (TGT) cannot be termed as contradictory to the notification issued by the National Council for Teacher Education in this regard.

8. In the written statement filed by Respondent No. 5 – NCTE, it is stated that vide notification dated March 31, 2010, the Central Government authorized the answering respondent, i.e. National Council for Teacher Education, as the academic authority under Section 23(1) of the aforesaid Act. The relevant part of the notification reads as under:-

"In exercise of the powers conferred by sub-section (1) of Section 23 of the Right of Children to Free and Compulsory

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Education Act, 2009, the Central Government hereby authorizes the National Council for Teacher Education as the academic authority to lay down the minimum qualifications for a person to be eligible for appointment as teacher."

9. In view of the powers so conferred/delegated by the Central Government as aforesaid, the NCTE laid down minimum qualifications for a person to be eligible as a teacher, vide its notification dated August 23, 2010. Subsequently, the said qualifications were/have been amended by the answering respondent vide notification dated July 29, 2011. From a bare reading of Section 23(1) of the aforesaid Act, notifications issued by the Central Government and notifications issued by the NCTE, it is clear that the qualifications prescribed by the answering respondent are "minimum". No State Government/Union territory can dilute the said minimum qualifications, the same being mandatory. However, the State Governments/Union Territories are free to prescribe higher qualifications than the one prescribed by the answering respondent provided the higher qualifications so framed are not inconsistent with the qualifications prescribed by the answering respondent. In the present case, it is apparent that the condition of passing Graduation with 50% marks prescribed by the respondent-Chandigarh Administration is higher than what is prescribed by the answering respondent and is not inconsistent in any manner whatsoever with the "minimum qualifications" prescribed by the answering respondent.

10. We have given careful consideration to the pleadings of the parties and arguments advanced by the learned counsels. We note that through this O.A., the applicant has not challenged the Chandigarh Education Service (School Cadre) (Group "C") Recruitment Rules, 1991 as amended from time to time. The Recruitment Notice prescribing the eligibility criteria for candidates aspiring to be selected as TGTs for

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appointment with the Chandigarh Administration is in accordance with the Notification of 10.03.2009. Moreover, although the NCTE had prescribed the qualification for the post of TGT 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 TGT who does not fulfill the minimum educational qualification criteria prescribed by the NCTE vide Notification dated 29.07.2011, 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 the minimum qualification criteria and to bar such authority from prescribing higher qualifications for selection of teachers.

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

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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 TGTs 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 fulfill the eligibility criteria as per the Recruitment Notice, he is not eligible to be considered for selection as TGT with Chandigarh Administration. The O.A. is rejected. No costs.

(RAJWANT SANDHU)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

PLACE: Chandigarh

Dated: 15.12.2015

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