

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 27/2014

Reserved on: 1.11.2017
Pronounced on: 7.11.2017

Hon'ble Mrs. Jasmine Ahmed, Member (J)
Hon'ble Mr. Uday Kumar Varma, Member (A)

Miss Nisha
D/o Shri Rajender Singh
Aged about 20 years
R/o 492, Saipur, Vill & P.O. : Saidpur
Distt. Sonipat, Haryana and had applied for
Teacher (Primary) on contract basis in North
Delhi Municipal Corporation ... Applicant

(Through Shri S.S. Tiwari, Advocate)

Versus

1. Commissioner,
North Delhi Municipal Corporation
Shyama Prasad Mukerjee Civic Centre
Jawahar Nehru Road, New Delhi
2. Director (Primary Education)
North Delhi Municipal Corporation
Shyama Prasad Mukerjee Civic Centre
Jawahar Nehru Road, New Delhi ... Respondents

(Through Shri Satyendra Kumar, Advocate)

ORDER

Mrs. Jasmine Ahmed, Member (J)

The short question involved in this OA is whether a provisional certificate issued by the educational authority is sufficient to enable a candidate to apply for a particular post?

2. The brief factual matrix of the case is that the respondents advertised for recruitment on contract basis for 440 Teachers (Primary) in June 2013 and the last date for submission of forms was 11.07.2013. It is contended by the learned counsel for the applicant that the applicant appeared for examination for Diploma in Education in October 2012 for fourth semester and the result of the same was declared on 5.01.2013 wherein she was declared successful. The applicant applied for a provisional certificate and the said provisional certificate was issued to her on 5.06.2013. It is also contended by the learned counsel for the applicant that after obtaining provisional certificate, the applicant applied for the aforementioned post on 21.06.2013 annexing all the necessary documents as per the advertisement. All the documents of the applicant were verified by the respondents on 30.07.2013 at 9.00 AM at Nigam Pratibha Vidyalaya, Double Storey, Kamla Nagar, Delhi but surprisingly, when the list of ineligible candidates was declared for the post of Teacher (Primary), the applicant found her name in that list of ineligible candidates at serial number 46 and the reason for her being declared ineligible was quoted as under:

“final result of E.T.E./D.ed declared after last date of application.”.

3. It is contended by the learned counsel for the applicant that the respondents have prepared the result after random sample checking and lower merited persons have been selected, ignoring the case of the applicant. It is further contended that the criteria of random sampling adopted by the respondents is

totally arbitrary as merit list was already prepared by them. The applicant secured an overall weightage of 81.79 against the cut off weightage of 79.58 and yet denied appointment unjustifiably.

4. It was argued on behalf of the applicant that there were total 224 vacancies of Teacher (Primary) under the Job ID 10501 in UR category and 216 candidates were selected. 88 candidates were declared ineligible and the cut off score was 79.58, which shows that the respondents have denied appointment to the applicant illegally and persons lower in merit have been appointed. Aggrieved, the applicant has approached this Tribunal seeking the following reliefs:

- “(a) to direct the respondents to appoint her as a Primary Teacher on contract as per job IS 10501.
- (b) grant all the consequential benefits flowing from grant of relief (a) & (b).
- (c) to pass any other order/s as may be deemed just fit and proper in facts and circumstances of the case.
- (d) Award cost.”

No interim relief was prayed by the applicant.

5. The respondents have contested the OA and filed their counter stating that the candidature of the applicant has not been rejected in an arbitrary manner but it was on account of the fact that the applicant was not having Diploma in Education on the last date of applications. They have also taken the plea that provisional certificate does not confirm that the applicant

has been granted a Diploma because the same was to be awarded after successful completion of internship. The respondents have not denied that the documents of the applicant were verified by them but have reiterated the fact that the applicant was not having diploma at the time of verification of documents and accordingly her candidature has rightly been rejected. The respondents have also stated that candidature of many others similarly placed has been rejected and hence no injustice has been done to the applicant.

6. The applicant has filed rejoinder wherein she has annexed copy of reply dated 7.05.2014 received in response to an RTI application, where Board of School Education, Haryana has stated that after completion of 90 days internship, the certificate of Diploma in Education is given but in cases where 180 days internship is not completed, it may affect the grading. It has categorically been written as follows in the reply to RTI application:

“हरियाणा विद्यालय शिक्षा बोर्ड, भिवानी

राज्य जन सूचना अधिकारी के पत्र क्रमांक 7761/आर.टी.आई., दिनांक 03-4-14 के माध्यम से प्रार्थी निशा, दिल्ली द्वारा मांगी गई सूचना निम्न प्रकार है :

१. Diploma in Education की दो वर्षीय शिक्षण परीक्षा पास करने के बाद तीसरे वर्ष कम-से-कम 90 दिनों की इंटर्नशिप करना जरूरी है. लेकिन 180 कार्यदिवसों से कम इंटर्नशिप किए जाने पर इसका ऋणात्मक प्रभाव ग्रेडिंग पर पड़ेगा !

२. Diploma in Education की दो वर्षीय परीक्षा पास करने तथा 90 दिनों की इंटर्नशिप पूर्ण करने पर डी.एड. संस्थान से ग्रेड प्राप्ति करने सहित आवश्यक कार्यालयी प्रक्रिया उपरांत सम्बंधित संस्था को Diploma in Education भेज दिया जाता है !

सूचनार्थ रा.ज.सू.आ. को प्रेषित है !

सहायक सचिव (शैक्षिक)

रा.ज.सू.आ. ”

7. Learned counsel for the applicant drew our attention to page no.34 of the paper book, which is also a reply to an RTI application dated 3.04.2014 in which also it has been reiterated that if the minimum 90 days internship is completed by a candidate, his internship is deemed to be completed. The reply specifically reads as follows:

“हरियाणा विद्यालय शिक्षा बोर्ड, भिवानी

राज्य जन सुचना अधिकारी के पत्र क्रमांक 7952/आर.टी.आई., दिनांक 30-5-14 के माध्यम से प्रार्थी निशा, सोनीपत द्वारा मांगी गई सुचना निम्न प्रकार है :

क. डि.एड. के तृतीय वर्ष के दौरान छात्र-अध्यापकों को एक वर्षीय इंटरनशिप (180 कार्यदिवस) करनी होती है ! यदि कोई छात्र-अध्यापक न्यूनतम 90 कार्यदिवस पूर्ण करता है तो उसकी इंटरनशिप पूर्ण मान ली जाती है ! हलाकि इसका प्रभाव छात्र-अध्यापक की ग्रेडिंग पर पड़ता है ! इसके अतिरिक्त इस बारे में शिक्षा विभाग / बोर्ड द्वारा समय-समय पर जारी दिशा-निर्देश भी लागू होंगे !

ख. इस बारे सुचना उक्त बिंदु "क" में निहित है !

सहायक निदेशक (शै.)

रा.ज.सू.आ.”

8. Bare reading of the above quoted replies to RTI applications clearly reflects that the provisional certificate was given to the applicant on completion of his diploma as well as 90 days internship and on basis of that provisional certificate, the applicant applied for the post in question.

9. We have heard the rival contentions of the parties and perused the documents on record.

10. It is the general practice that provisional certificates are issued by the educational institutions just to enable the candidates to apply for competitive exams or for a post

advertised. Since the process of issuance of proper Degree/ Diploma takes some time, the educational institutions issue such certificates so that the candidates are not deprived to apply for a post or to appear in a competitive exam. Here, we find from the documents on record that the applicant appeared for the fourth semester of Diploma in Education in October 2012 and the result was declared on 5.01.2013. The applicant was declared successful and the provisional certificate was issued to her on 5.06.2013. The advertisement was published in June 2013 and the last date for submission of forms was 11.07.2013 and the applicant applied on 21.06.2013. The applicant applied for the post annexing all the documents. Her documents were verified and she was declared ineligible for the reason final result of ETE/D declared after the last date of submission of forms. In this regard, para 4.4 and 4.5 of the reply filed by the respondents read as follows:

"4.4 That the contents of this sub para are wrong and denied. It is submitted that the provisional certificate does not confirm that the applicant has been granted a Diploma because the same was to be awarded after successful completion of internship.

4.5 That the documents of the applicant were verified by the officials of respondents and it was found that the applicant was not having a Diploma in Education."

Bare reading of the above quoted two paragraphs clearly reveals that the provisional certificate was also verified by the respondents but they were not satisfied as there was no proper certificate of diploma produced before them. The respondents

have also taken the plea that in the bottom of the mark sheet supplied by the applicant, it is mentioned that "Diploma will be awarded after successful completion of internship".

11. From the RTI replies quoted above, it is clear that if the applicant has completed 90 days internship, she is eligible to get Diploma in Education and since she completed 90 days internship with effect from 16.11.2012 to 31.03.2013, the plea taken by the respondents that she is not having a proper Diploma certificate does not have any weightage as provisional certificates are equally accepted in absence of proper degree/certificate not being issued by educational authorities. Thus, in our considered opinion, the plea taken by the respondents that the final result of ETE/D was declared after the last date of applications, cannot be a cause to declare the applicant ineligible as the diploma ultimately dates back from provisional certificate issued.

12. Accordingly, the action of the respondents in regard to the applicant is quashed and set aside. The applicant is declared eligible to the post of Primary Teacher. Respondents are directed to give her offer of appointment to the post of Primary Teacher. She will be entitled to her seniority and benefit of notional fixation of pay with effect from the date the other candidates have joined the post. However, she will not be entitled for the back wages from the date of joining of other

candidates till the date of pronouncement of this judgment. The OA is allowed in the abovesaid terms. No costs.

(Uday Kumar Varma)
Member (A)

(Jasmine Ahmed)
Member (J)

/dkm/