

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

RA No. 38/2016
OA No. 3136/2013

This the 16th day of February, 2016

**Hon'ble Mr. A.K.Bhardwaj, Member (J)
Hon'ble Mr. V.N. Gaur, Member (A)**

Ms. Mamta Saluja
W/o Sh. Jagmohan Saluja,
r/o SD-118, Tower Apartments,
Pitampura, Delhi-34.

- Applicant

Vs.

1. Govt. of N.C.T. of Delhi
Through the Chief Secretary,
5th floor, Delhi Sachivalaya, New Delhi.
2. Union Public Service Commission,
Through its Chairman,
Dholpur House,
Shahjahan Road,
New Delhi-110001.

- Respondents

ORDER (IN CIRCULATION)

Hon'ble Shri V.N.Gaur, Member (A)

The present Review Application has been filed by the applicant in OA No.3136/2013 which was dismissed by order dated 29.07.2015. The application has been filed after the permissible period of 30 days for filing the Review Application. However, the applicant has filed an application for condonation of delay, which is allowed for the reasons stated therein.

2. The main ground for filing the Review Application is that according to the applicant the Tribunal had erred in deciding the issue whether possession of Master's Degree in Education met the educational qualification prescribed for the post of Principal advertised by the respondents in OA No.3136/2013. In the Review Application, it has been stated that the Tribunal had wrongly applied the judgment in **Dr. Prit Singh vs. S.K.Mandal**, 1993 (SUPP (1) SCC 714 while deciding the case. It has been stated that there is another judgment of Hon'ble High Court of Allahabad in **Braj Bhushan Tiwari vs. District Inspector of Schools and ors.**, 2003 (50) ALR 149 wherein this issue has been examined in detail. The distinction drawn between "educational" and "academic" qualification in that judgment would distinguish the review applicant's case from that in **Dr. Prit Singh's** case (supra).

3. We have considered the submissions made in the Review Application. It is trite that by way of Review Application the applicant cannot re-argue the case. The scope of review is limited to any error apparent on the face of record. The power of review of this Tribunal is derived from Section 22 (3) (f) of the Administrative Tribunals Act. The Hon'ble Supreme Court in **Ajit Kumar Rath v. State of Orissa and Others**, (1999) 9 SCC 596 held that "power of review available to the Tribunal under Section

22 (3)(f) is not absolute and is the same as given to a Court under Section 114 read with Order 47 Rule 1 of CPC."

4. Order XLVII, Rule (1) of Code of Civil Procedure reads as below :-

"(1) Any person considering himself aggrieved,—

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order."

5. In ***Sow Chandra Kanta and another v. Sheik Habib***, AIR 1975 SC 1500 the Hon'ble Supreme Court had held:

"Once an order refusing special leave has been passed by this Court, a review thereof must be subject to the rules of the Supreme Court Rules, 1966, and cannot be lightly entertained. Review proceeding does not amount to a re-hearing. A review of a judgment is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility. Even if the order refusing special leave was capable of a different course, review of the earlier order is not permissible because such an order has the normal feature of finality.

Observation : It is neither fairness to the Court which decided nor awareness of the precious public time lost what with a huge back-log of dockets waiting in the queue for disposal, for counsel 'to issue easy certificates for entertainment of review and fight over again the same battle which has been fought and lost."

6. In ***Union of India v. Tarit Ranjan Das***, (2004) SCC (L&S)

160 the Hon'ble Apex Court held that the scope of review is rather limited and it is not permissible for the forum hearing the review application to act as an appellate authority in respect of the original order by a fresh order and rehearing of the matter to facilitate a change of opinion on merits.

7. The sole ground for asking a review of the order dated 29.07.2015 is that the applicant could not place before this Tribunal the order of Allahabad High Court in **Braj Bhushan Tiwari** (supra) which squarely covers the case of the applicant.

8. We have carefully perused that judgment. In the context of the facts of the case of Braj Bhushan Tiwari the Hon'ble High Court discussed the judgments in **Samar Bahadur Singh v. Deputy Director of Education and Ors.**, 1991 (1) AWC 355; **S.K. Verma v. Samar Bahadur Singh Ors.**, 1992(1) AWC 558; **Dr.M.S.Mudhol and anr. Vs. S.D.Halegkar and ors.**, 1993 (3) SCC 591; **Dr. Ram Sevak Singh vs. Dr.U.P.Singh and others**, 1999 SCC 538 and **Dr.Prit Singh** (supra).

9. In **Samar Bahadur Singh** and **S K Verma** it was held by the Honble High Court (in single Bench and Division Bench respectively) that M Ed was a post graduate degree. In **Dr Ram Sevak Singh** the Hon'ble High Court discussed the Apex Court

judgments in **Mudhol** and **Dr Prit Singh** and concluded that the recruitment rules in that case (Dr Ram Sewak Singh) required a candidate only to be a post graduate and in that context M Ed degree could not be considered to be a non - post-graduate degree. In **Mudhol** and **Dr Prit Singh** qualifications required were a Master's degree and a degree in education. In such a case the Apex Court held that a professional degree of M.Ed. could not be a substitute for the academic post-graduate degree of M.A. or equivalent. The Case of Braj Bhushan Singh was distinguished from those of Mudhol and Dr Prit Singh as in Braj Bhushan Singh prescribed qualification was "Trained M.A. or M.Sc. or M.Com. or M.Sc. (Agriculture) or any equivalent post-graduate ..." while in the other two cases professional qualification was an additional qualification required beside post graduate degree in arts or science etc. The facts of the present case are more akin to Mudhol and Dr. Prit Singh than Dr. Ram Sewak Singh or Braj Bhushan Singh. The relevant part of the judgment in **Braj Bhushan Singh** is reproduced below:

"9. In [Dr. Ram Sevak Singh v. Dr. U.P. Singh and Ors.](#), 1999 (2) AWC 1039 (SC) : 1999 SCC (L & S) 538, the rule laying down the qualification for the post of Principal provided :

(a) A consistently good academic record (that is to say, the overall record of all assessments throughout the academic career of a candidate) with first or high second class (that is to say, with an aggregate of more than 54 per cent marks) Master's degree or an equivalent degree of a foreign university in one of the subjects taught in the college or in a subject allied or interconnected therewith."

10. The High Court had proceeded to decide the matter on the basis that the M.Ed. degree is not an academic qualification as referred to in Statute 11.13A and Master's degree would not include M.Ed. degree which is a professional degree relying upon the decision in Dr. Prit Singh, 1992 (3) AWC 1797 (SC) : 1993 Supp (1) SCC 714. The Apex Court noticed the distinction between the requirement of qualification in the two cases. In Dr. Prit Singh, the required qualification was Master's degree and a degree in education as an additional qualification. Such was also the required qualification which fell for Interpretation in the case of Dr. M.S. Mudhol The Apex Court in paragraph 7 of its judgment held as under :

“7. Therefore, the principal question that falls for consideration is whether M.Ed. degree possessed by the appellant was a qualification for the purpose of appointment as a Principal. In Dr. Prit Singh, the qualification required was a Master's degree in any subject and also a degree in education, whereas in the present case, the qualification required is Master's degree or an equivalent degree in one of the subjects taught in the college or in a subject allied or interconnected therewith. The distinction between the requirement of qualification in these two cases is obvious. In Dr. Prit Singh, the required qualification was a Master's degree and a degree in education as an additional qualification. In the present case, the college imparts education in teaching as well and, therefore, Master's degree in education is a degree in respect of a subject taught in the college, we cannot apply the ratio settled in Dr. Prit Singh irrespective of the qualifications required for a particular post. In the present case, a master's degree required can include a teaching subject and therefore, M.Ed. degree possessed by the appellant was held to be a sufficient qualification by the Commission. It cannot be said that the principles stated by this Court in Dr. Prit Singh can be applied in the present case because in Dr. Prit Singh the qualifications were a Master's degree and a degree in education whereas in the present case, a Master's degree in any subject taught in the college was the requisite qualification. We think the appellant satisfied the same. In regard to the other qualification of "consistently good academic record" which had been relaxed, this has not been seriously disputed.”

11. From the aforesaid discussion, it appears that rule which fell for interpretation in the case of Dr. M.S. Mudhol was different from that in the present case and similar to that in Dr. Prit Singh and the Apex Court did not extend the principles laid down in Dr. Prit Singh to interpret the rule involved for consideration in Dr. Ram Sewak Singh. The regulation laying down the qualifications in the present case is different from that in Dr. M.S. Mudhol. For the reasons given above, it cannot be said that the decision of this Court in Samar Bahadur Singh stands impliedly overruled. The result, therefore, is that M.Ed. qualification which the petitioner possesses is a Post-Graduate Degree and the petitioner could not be held to be ineligible treating the said qualification as not being a Post-Graduate Degree.”

10. We find that in the OA No. 3136/2013 the educational qualification required was:

- (1) At least second class Master's Degree from recognised University or equivalent and
- (2) Degree in teaching Education from a recognized University or equivalent.

11. From the preceding discussion we are of the view that there was no error in relying on **Dr. Prit Singh's case** (supra) in order dated 29.07.2015.

12. In the light of the above, we do not find any error apparent on the face of the record or any relevant document or judgment that could not be produced by the applicant despite all due diligence at the time of hearing in the main OA. The judgment sought to be placed on record for consideration by way of this RA does not change the situation in any manner. Hence the RA is dismissed being devoid of merit.

(V.N. Gaur)
Member (A)

(A.K. Bhardwaj)
Member (J)

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