

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.2366/2015

Friday, this the 16th day of October, 2015

**Hon'ble Mr. A.K. Bhardwaj, Member (J)
Hon'ble Dr. B. K. Sinha, Member (A)**

Ms. Swarti d/o Rajender Baisoya
r/o 494, Kherpur Village
Kotla Mubarakpur, New Delhi-3
(Age about 27 years)
Guest Teacher)

..Applicant

(Mr. T N Tripathi, Advocate)

Versus

1. Govt. of NCT of Delhi
Through Chief Secretary
IP Estate, 5th Floor, Delhi Sachivalaya
Govt. of NCT of Delhi
2. Directorate of Education (GNCT of Delhi)
Through Director
Old Secretariat, Delhi-54
3. The Principal
SBV (Koutilya)
Chirag Enclave, New Delhi-48
4. The Deputy Director
(Education)
GNCT of Delhi
South East Zone
C Block, Defence Colony, New Delhi

..Respondents

(Mr. Anmol Pandita, Advocate for Mr. Vijay Pandita, Advocate with Mrs.
Meena Tuli, Legal Assistant, Departmental Representative)

O R D E R (ORAL)

Mr. A.K. Bhardwaj:

It is the case of the applicant that for the academic session 2013-14
she applied for her appointment as Guest Assistant Teacher (Primary) as

well as Guest Assistant Teacher (Nursery) and on being so appointed w.e.f. 19.2.2015, she worked as Guest Assistant Teacher (Nursery) in S.B.V. (Koutilya), Chirag Enclave, New Delhi. According to learned counsel for applicant, she worked in the school from 19.2.2015 to 02.5.2015 where after her services were discontinued. Thus she filed the Original Application praying therein:

- “i) Hold and declare that the applicant has wrongly been denied consideration and engagement/appointment as Guest Teacher/ Assistant (Primary) for the academic year 2015-16 with accord of all consequential benefits, including monetary benefits;
- ii) Direct the respondents to make necessary rectifications in the records qua the engagement / appointment of the applicant as Guest Teacher/ Assistant Teacher (Primary);
- iii) Direct the respondents to further consider and appoint the applicant as Guest Teacher / Assistant Teacher (Primary);
- iv) Award costs of the proceedings; and
- v) Pass any order/ relief/ direction(s) as this Hon’ble Tribunal may deem fit and proper in the interests of justice in favour of the applicants.”

2. The salient grounds put forth on behalf of the applicant to espouse the prayer made in the Original Application are that in fresh appointment of Guest Teacher, the previous service rendered by her could not have been ignored and while working as Guest Assistant Teacher (Nursery), the applicant had taken the classes as Guest Assistant Teacher (Primary) also, thus even when she is not eligible for Guest Assistant Teacher (Nursery), the respondents should consider appointing her as Guest Assistant Teacher (Primary).

3. In the counter reply filed on behalf of the respondents, it has not been disputed that the applicant is qualified for appointment to the post of Guest

Assistant Teacher (Primary) and she had also applied for the post.

Paragraphs 4.2 and 4.3 of the reply read thus:-

“4.2 In reply to para 4.2, it is submitted that the applicant is qualified to be appointed as Asst Tr. (Primary), where as she applied for Assistant Teacher (Nursery) in her online application form submitted in the data base of Directorate of Education.

4.3 In reply to this Para it is submitted that the applicant applied for Assistant Teacher (Primary) as per satisfying the eligibility criteria for the post of Assistant Teacher (Primary) set by Directorate of Education.”

4. The only stand taken in the reply to nix continuance of applicant as Guest Assistant Teacher (Nursery) is that she could not produce diploma / certificate in Nursery Teacher Education Program of not less than two years or certificate of B.Ed. (Nursery) from a recognized institution, which is the requirement of the amended Recruitment Rules. The stand so taken in paragraphs 4.6 and 4.7 of the reply read thus:

“4.6 & 4.7 In reply to paras 4.6 & 4.7, it is submitted that the applicant has applied for Guest Assistant Teacher (Nursery) in her application form filled online in the Data base of Directorate of Education for the post of Assistant Teacher (Nursery) but as she was qualified for the post of Assistant Teacher (Primary) as per recruitment rules of Directorate of Education she was relieved due to non fulfilling of Recruitment Rules in view of the fact has not produced the Diploma/ Certificate in Nursery Teacher Education Program of not less than 2 years or B.Ed. (Nursery) from a recognized institution. The RRs dated 15.6.2012 were amended vide corrigendum dated 16.11.2011, copy of which has already been annexed by the applicant at page 36 & 38 of the OA paperbook respectively.”

5. We heard the learned counsels for the parties and perused the record.

6. Once the previous engagement of the applicant was as Assistant Teacher (Nursery) on guest basis, her service in such capacity would not create any preferential right in her favour for appointment as Assistant

Teacher (Primary) on guest basis. Nevertheless, once she had applied for Guest Assistant Teacher (Primary) also and according to the stand taken by the respondents themselves she is eligible for post, the respondents are directed to consider engaging the applicant as Assistant Teacher (Primary) on guest basis as and when fresh appointment on the post of Guest Teachers are made.

7. Original Application stands disposed of. No costs.

(Dr. B.K. Sinha)
Member (A)

(A.K. Bhardwaj)
Member (J)

October 16, 2015
/sunil/