

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A.NO.2099 OF 2015

New Delhi, this the 9th day of February, 2016

CORAM:

HON^{BLE} SHRI SUDHIR KUMAR, ADMINISTRATIVE MEMBER
AND
HON^{BLE} SHRI RAJ VIR SHARMA, JUDICIAL MEMBER

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1. Jyoti Bhardwaj,
aged 29 years,
D/o Sh.Prakash Chand Bhardwaj,
R/o C-15 E, Railway Colony,
Lajpat Nagar, New Delhi 24

2. Usha,
aged 28 years,
D/o Sh.Nagender Singh,
R/o S-4, Pandav Nagar,
Near Jain Mandir,
Opp.Mother Dairy,
New Delhi-92 Applicants

(By Advocate: Mr.S.N.Sharma)

Vs.

1. GNCT of Delhi, through Secretary/Chief Secretary,
Old Secretariat,
New Delhi
2. Director of Education,
Delhi Secretariat,
I.P.Estate, GNCTD, New Delhi. Respondents

(By Advocate: Shri Anmol Pandita for Shri Vijay Pandita)

2000-2001

ORDER**RAJ VIR SHARMA, MEMBER(J):**

The brief facts of the applicants' case are as follows:

1.1 Applicant no.1 passed B.A. (Programme) from the Delhi University in the year 2007, with English subject in Parts I (1st Year) and III (3rd year) of the said three-year course. She also passed B.Ed. in May 2008, and Central Teacher Eligibility Test (CTET) in June 2011. She applied for selection and engagement as Guest Teacher (TGT-English) for the academic year 2014-15. The Principal, Veer Sardar Govt. Sarvodaya Kanya Vidyalaya, Kalkaji No.1, New Delhi, issued letter dated 16.2.2015 (Annexure A/4) engaging her as Guest Teacher (TGT-English) at the said school with effect from 23.8.2014, subject to the final outcome of OA No.2671/14 & MA2269/14 (Sonali Mishra and others v. Govt. of NCT of Delhi and others) pending before the Tribunal. While she was continuing as Guest Teacher (TGT-English), the Principal, Veer Sardar Govt. Sarvodaya Kanya Vidyalaya, Kalkaji No.1, New Delhi, issued letter dated 2.5.2015 (Annexure A/1), disengaging her with effect from 2.5.2015 on the ground of her not fulfilling the eligibility criteria laid down in the Recruitment Rules.

1.2 Applicant no.1 passed B.A. (Programme) from the Delhi University in the year 2007, with Hindi subject in Parts I (1st Year) and II (2nd year) of the said three-year course. She also passed B.Ed. in May 2008. She applied for selection and engagement as Guest Teacher (TGT-Hindi) for the academic year 2014-15. The Principal, Veer Sardar Govt. Sarvodaya Kanya Vidyalaya, Kalkaji No.1, New Delhi, issued letter dated 16.2.2015

(Annexure A/4) engaging her as Guest Teacher (TGT-Hindi) at the said school with effect from 23.8.2014, subject to the final outcome of OA No.2671/14 & MA2269/14 (Sonalika Mishra and others v. Govt. of NCT of Delhi and others) pending before the Tribunal. While she was continuing as Guest Teacher (TGT-Hindi), the Principal, Veer Sardar Govt. Sarvodaya Kanya Vidyalaya, Kalkaji No.1, New Delhi, issued letter dated 2.5.2015 (Annexure A/1), disengaging her with effect from 2.5.2015 on the ground of her not fulfilling the eligibility criteria laid down in the Recruitment Rules.

1.3 Hence, the present O.A. was filed by the applicants on 28.5.2015, seeking the following reliefs:

- ð(a) Quash the relieving letters dated 02.05.2015 so issued by the respondent.
- (b) Direct the Respondents to re-engage the applicants for the academic session 2015-16 on the post of TGT English in case of applicant No.1 and TGT Hindi in case of applicant No.2.
- (c) Direct the respondent to pay the litigation expenses to the Applicant.
- (d) Pass any other order or orders as deemed fit and proper in the facts and circumstances of the case in favour of the Applicants.ö

2. A counter reply, verified by Dr.S.M.Stella Kujur, DDE (South East), Government of NCT of Delhi, has been filed on behalf of the respondents, opposing the claim of the applicants. It is, *inter alia*, stated by the respondents that applicant no.1 had not studied English, and the applicant no.2 had not studied Hindi, in all parts/years of Graduation. Thus, they did not fulfil the eligibility criteria laid down in the Recruitment Rules/Notice for engagement of Guest Teachers. Therefore, their

engagement as Guest Teachers was discontinued, and they were disengaged with effect from 2.5.2015.

3. No rejoinder reply has been filed by the applicants.

4. We have perused the pleadings of the parties, and have heard Shri S.N.Sharma, the learned counsel appearing for the applicants, and Shri Anmol Pandita for Shri Vijay Pandita, the learned counsel appearing for the respondents. During the course of hearing, the learned counsel for the parties are *ad idem* that the present Original Application is covered in favour of the applicants by the decision of the Tribunal in **Nikita Varma and others Vs. GNCT of Delhi and others**, O.A.No.2838 of 2015, decided on 30.10.2015.

5. In **Nikita Varma and others Vs. GNCT of Delhi and others** (supra), the grievance of the applicants was that applicant nos. 4 to 6 were denied re-engagement as Guest Teachers (TGT-English) for the academic session 2015-16, and re-engagement of applicant nos. 1 to 3 as Guest Teachers (TGT-English) during the academic session 2015-16 was discontinued in July 2015, on the ground that they, having not studied English subject in all parts/years of Graduation, did not fulfill the eligibility criteria laid down in the Recruitment Rules. Relying on the decision of the Tribunal in **Naveen Sharma & another Vs. GNCT of Delhi & others**, OA No.2210 of 2015, decided on 27.8.2015, wherein it was held that in view of the decision of the Hon'ble Delhi High Court in the case of **Government of NCT of Delhi & others etc. Vs. Sachin Gupta, etc.**, W.P. (C) No.1520 of

2012 and other connected writ petitions, decided on 7.8.2013, the rejection of candidature of an applicant for engagement as Guest Teacher (TGT-English) or Guest Teacher in any other disciplines, on the ground of his/her having not studied the subject concerned in all parts/years of Graduation, was unsustainable, it was contended by the applicants that their non-engagement and disengagement as Guest Teachers (TGT-English) on the ground of their having not studied English subject in all parts/years of Graduation were unsustainable. Though the materials placed by the applicants before the Tribunal did not show that their non-engagement and disengagement as Guest Teachers (TGT-English) were made on the ground of their having not studied English subject in all parts/years of Graduation, yet, after taking into consideration the averment made by the respondents in their counter reply that the applicants were ineligible for engagement as Guest Teachers (TGT-English) on account of their having not studied English subject in all parts/years of Graduation, and also the fact that the representations made by the applicants in July and September 2015 for their re-engagement during the academic year 2015-16 remained pending with the respondents, the Tribunal disposed of the O.A., vide its order dated 30.10.2015, *ibid*, by issuing the directions contained therein.

6. It is pertinent to mention here that the engagement/re-engagement of Guest Teachers is made by the respondents purely on ad hoc and daily basis till the posts are filled up on regular basis. Such Guest Teachers are not entitled to regular appointment. The engagement/re-

engagement of Guest Teachers is purely a stop-gap arrangement. The candidates so engaged are not entitled to claim salary, allowances, facilities, and other benefits accruing to regular teachers. The Guest Teachers are liable to be disengaged from the school as soon as regular teachers join the school.

7. On a perusal of the records, we have found that the applicants have not made applications in response to the circular dated 13.5.2015 issued by the respondents for re-engagement of Guest Teachers for academic session 2015-16, though they have prayed for issuance of a direction to the respondents to re-engage them as Guest Teachers during the academic session 2015-16 which is going to be over in May 2016. We have also found that the applicants have not approached the respondents against the orders dated 2.5.2015 issued by the Principal, Veer Sardar Govt. Sarvodaya Kanya Vidyalaya, Kalkaji No.1, New Delhi.

8. After having given our anxious consideration to the facts and circumstances of the case, as well as the submission made by the learned counsel appearing for the parties, we dispose of the present O.A. with the following directions:

(1) Each of the applicants, within a period of fifteen days from today, shall make a detailed representation to the Director of Education (respondent No.2), along with copies of their previous engagement letters and certificates of educational qualifications, etc., for re-

engagement as Guest Teacher (TGT-English)/ Guest Teacher(TGT-Hindi) for the remaining period of academic session 2015-16 in the school where they claimed to have been previously engaged or in any of the schools, where vacancies in the post of TGT (English)/TGT(Hindi) are still available.

- (2) If the representations, as directed above, are made by the applicants, respondent no.2, within a period of fifteen days from the date of receipt of representations, shall consider the same and take appropriate decision by passing a reasoned and speaking order separately in the case of each of the applicants. The decision to be so taken shall be communicated to each of the applicants.
- (3) In view of the decision in **Govt. of NCT of delhi & others, etc. Vs. Sachin Gupta, etc.** (supra), respondent no.2, while considering the representations of the applicants for engagement/re-engagement as Guest Teachers, shall not declare the applicants ineligible for engagement as Guest Teacher (TGT-English)/Guest Teacher (TGT-Hindi), on the ground that they, having not studied English/Hindi subject in all parts/years of Graduation, do not fulfill the eligibility criteria laid down in the Recruitment Rules. As regards other eligibility

conditions laid down in the Recruitment Rules for the post of TGT(English)/TGT(Hindi) and the provisions of the scheme for engagement/re-engagement of Guest Teacher (TGT-English)/Guest Teacher(TGT-Hindi), respondent no.2 shall specifically examine and record his findings whether the applicants fulfill the same.

(4) In the event any of the applicants feels aggrieved by the decision to be so taken by respondent no.2, she can make a representation against the same before respondent no.1. In the event of her grievance not being redressed by respondent no.1, she, if so advised, is at liberty to approach appropriate legal forum.

9. We would, however, observe here that if no vacancies are available in the post of TGT (English)/TGT(Hindi) for re-engagement of the applicants as Guest Teacher (TGT-English)/Guest Teacher (TGT-Hindi) for the remaining period of the current academic session 2015-16, the present order passed by the Tribunal will not confer on them any right to claim re-engagement as Guest Teacher (TGT-English)/Guest Teacher(TGT-Hindi) either for the remaining period of the current academic session 2015-16, or for the subsequent academic session, and that respondent no.2, while considering the representations of the applicants in the present case, is also free to consider the claims of other similarly placed persons.

10. With the above observations and directions, the O.A. is disposed of. No costs.

(RAJ VIR SHARMA)
JUDICIAL MEMBER

(SUDHIR KUMAR)
ADMINISTRATIVE MEMBER

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