

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.2107 OF 2015

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

CORAM:

HON^ØBLE SHRI SUDHIR KUMAR, ADMINISTRATIVE MEMBER
AND

HON^ØBLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER

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1. Punita Kumari,
aged 36 years,
D/o Sh. Shio Nath Prasad,
R/o G-107/B-2, Kunwar Singh Nagar,
Nangloi, New Delhi 110041

2. Poonam Sharma,
Aged about 34 years,
D/o Sh.Krishan Sharma,
R/o Subhas Nagar, Rohtak Road,
Jind (Haryana)126102

.... 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.

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Respondents

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

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

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

1.1 Applicant no.1 passed B.A. with Home Science, and M.A. (Home Science). She also passed B.Ed. in May 2005. On the basis of her application, she was engaged as Guest Teacher (TGT-Home Science) for the academic session 2013-14, vide letter dated 31.7.2013. She again applied for engagement as Guest Teacher (TGT-Home Science) for the academic session 2014-15, but her candidature was rejected. Her representation dated 30.1.2015 was not considered by the respondents. The respondents issued circular dated 13.5.2015 for re-engagement of Guest Teachers for the academic session 2015-16. Thereafter, the DDE, West B, New Delhi, vide letter dated 13.5.2015 (Annexure A/1), rejected the candidature of the applicant on the ground of her being ineligible for re-engagement as Guest Teacher (TGT-Home Science) in terms of the Recruitment Rules/circular dated 13.5.2015.

1.2 Applicant no.2 passed B.A. with Home Science, and B.Ed. On her application, she was engaged as Guest Teacher (TGT-Home Science) for the academic sessions 2012-13 and 2013-14. She was not re-engaged as Guest Teacher (TGT-Home Science) for the academic session 2014-15, though her name found place in the list of selected candidates prepared up to 30.1.2015. The respondents issued circular dated 13.5.2015 for re-engagement of Guest Teachers for the academic session 2015-16. Thereafter, the DDE, West B, New Delhi, vide letter dated 13.5.2015

(Annexure A/1), rejected the candidature of the applicant on the ground of her being ineligible for re-engagement as Guest Teacher (TGT-Home Science) in terms of the Recruitment Rules/circular dated 13.5.2015.

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

- õ(a) Quash the rejection letters dated 13.5.2015.
- (b) Direct the Respondents to re-engage the applicants for the academic session 2015-16.
- (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 Mr.Kamlesh Kaur Chauhan, Dy.Director of Education, Distt. West-B, 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 the applicants were ineligible for being engaged as Guest Teachers (TGT-Home Science) in terms of the Recruitment Rules (Annexure R/1) and, therefore, their candidatures were rejected.

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 Honøble 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. The rejection letter dated 13.5.2015 (Annexure A/1) issued by Mr.Kamlesh Kaur Chauhan, DDE West B, to applicant no.1 reads thus:

REJECTION LETTER

MR./MS.PUNITA KUMARI ID NO.2013076705 is hereby informed that his/her candidature for the post of TGT HOME SCIENCE as guest Teacher in district West-B is considered as per direction of DOE but rejected due to not eligible as per Recruitment Rules mentioned in the Circular of engagement of Guest teachers of JDE Planning.

6.1 The rejection letter dated 13.5.2015 (Annexure A/1) issued by Mr.Kamlesh Kaur Chauhan, DDE West B, to applicant no.2 reads thus:

REJECTION LETTER

MR./MS.PUNAM SHARMA ID NO.2013098983 is hereby informed that his/her candidature for the post of TGT HOME SCIENCE as guest Teacher in district West-B is considered as per direction of DOE but rejected due to not eligible as per Recruitment Rules mentioned in the Circular of engagement of Guest teachers of JDE Planning.

6.2 The Recruitment Rules for the post of Domestic Science Teacher (Annexure R/1) stipulate the following eligibility criteria:

6. Age limit for direct recruits:

30 years (Relaxable in case of widows, Govt.servants and those teaching in Universities).

7. Educational and other qualifications required for direct recruits:

Essential:

Graduate from a recognized University with Diploma in Home Science from a recognized University.

Or

B.Sc. (Home Science) with Degree/Diploma in Training/Education.

6.3 The notice issued by the respondents for engagement of Guest Teacher (TGT-Home Science) stipulates as follows:

7.3 TGT (Home Science) Graduate with Diploma in Home Science from a recognized University OR B.Sc.(Home Science) with Degree/Diploma in education.

7. In their counter reply, the respondents have not disputed the averments made by the applicants about their educational qualifications, etc. The respondents have also not disputed the fact of engagement of applicant no.1 for the academic session 2013-14, and engagement/re-engagement of applicant no.2 for the academic sessions 2012-13 and 2013-14. If the applicants had earlier been found eligible for engagement as Guest Teachers (TGT-Home Science) in terms of the Recruitment Rules and had earlier been engaged as Guest Teachers (TGT-Home Science) on the basis of educational qualifications possessed by them, we are at a loss to understand how the respondents subsequently found them as ineligible for re-engagement as

Guest Teachers (TGT-Home Science). On a perusal of the counter reply, we have found that save and except making a bald statement that the applicants were ineligible for engagement as Guest Teachers (TGT-Home Science) in terms of the Recruitment Rules, the respondents have not explained as to what was lacking in the case of the applicants for their engagement as Guest Teachers (TGT-Home Science) for the academic sessions 2014-15 and 2015-16, more so when it, *prima facie*, appears that the applicants fulfilled the eligibility criteria as laid down in the Recruitment Rules/notice, which have been reproduced in the preceding paragraphs 6.2 and 6.3 above. However, on a perusal of the records, we have found that instead of approaching the respondents against the impugned letters dated 13.5.2015 issued by Shri Kamlesh Kaur Chauhan, DDE, West B, the applicants have straightaway filed the present O.A. before this Tribunal. Therefore, they cannot be said to have exhausted the departmental remedy before making the present O.A. under Section 19 of the Administrative Tribunals Act, 1985.

8. 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.

9. 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 Teachers (TGT-Home Science) 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 (Home Science) 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 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.

10. We would, however, observe here that if no vacancies are available in the post of TGT (Home Science) for re-engagement of the applicants as Guest Teachers (TGT-Home Science) 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 Teachers (TGT-Home Science) 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.

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

(RAJ VIR SHARMA)
JUDICIAL MEMBER

(SUDHIR KUMAR)
ADMINISTRATIVE MEMBER