

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

OA-3447/2016

New Delhi, this the 28th day of February, 2017.

Hon'ble Mr. Shekhar Agarwal, Member (A)

Hon'ble Mr. Raj Vir Sharma, Member (J)

Akhil Tanwar, Aged -28 years,
S/o Sh. Shiv Kumar Tanwar,
R/o H.No. WZ-479, Naraina,
New Delhi-28.

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Applicant

(By Sh. Yogesh Sharma)

Versus

1. The Govt. of NCT of Delhi,
Through the Chief Secretary,
New Secretariat, New Delhi.

2. The Director of Education,
Govt. of NCT of Delhi,
Old Secretariat, Delhi.

3. The Secretary,
Delhi Subordinate Services Selection Board,
Govt. of NCT of Delhi, F-18, Institutional Area,
Karkardooma, Delhi-92.

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Respondents

(By Ms. P.K. Gupta and Sh. Satyendra Kumar for Sh. K.M. Singh)

ORDER (ORAL)

Hon'ble Mr. Shekhar Agarwal, Member (A)

This OA has been filed seeking the following reliefs:

“(i) that the Hon'ble Tribunal may graciously be pleased to pass an order of quashing the impugned order dated 27.07.2016 (Annex. A/1) by which the candidature of the applicant for the post of TGT (Eng.) has been cancelled declaring to the effect that the same is illegal and arbitrary and consequently pass an order directing the respondent to declare the result of the applicant and consequently to pass an appropriate order for appointment of the applicant to the post of TGT (English) from the date of appointment of junior and similarly situated persons with all

consequential benefits including seniority, arrears of difference of pay and allowances.

(ii) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicant."

2. Learned counsel for the applicant submitted that the applicant was a candidate for the post of TGT (English). He successfully participated in the selection process. However, his candidature was rejected by the impugned order on the ground that he has not studied English as an elective subject in Graduation.

3. Learned counsel Ms. Gupta has appeared for the respondents, who have filed their reply. In Para 4 they have stated that the applicant did not meet eligibility conditions prescribed in the RRs inasmuch as he had not studied English as a subject in all parts/years of his graduation.

4. Learned counsel for the applicant argued that this issue has been considered by Hon'ble High Court of Delhi in Writ Petition No. 1520/2012 titled **Govt. of NCT of Delhi & Ors. Vs. Sachin Gupta** pronounced on 07.08.2013 along with other connected Writ Petitions. In Paras 40 and 41 of the aforesaid judgment, the following has been held:

"40.To repeat, corrigendum dated March 30, 2010 prescribes that the expression 'elective subject' occurring in the Recruitment Rules means that 'The candidate should have studied the subject concerned as mentioned in the RRs in all parts/years of graduation. The elective word may also include main subject as practiced in different universities .It is clear that the ethos of the prescription contained in the corrigendum dated March 30, 2010 that 'the candidate should have studied the subject concerned as mentioned in the RRs in all parts/years of graduation is that the candidate should have a deep understanding of the subject in which he is desirous of imparting education to the children.

41.All universities in India do not offer a particular elective subject in all three years' of graduation course as in the case of Nainika, Vikram Singh and Sachin

Gupta, where Delhi University did not teach English/Hindi/Economics in all three years of B.A. program/B.Com (H) course (s) conducted by it. If the corrigendum dated March 30, 2010 is given a literal interpretation, all such candidates who have studied concerned subject i.e. the subject for which they have applied from the Universities which are not teaching said subject in all three years' of Graduation course offered by them would be rendered ineligible for appointment to the post of T.G.T. despite the fact they have studied the concerned subject in all parts/years in which the subject is taught by the university and have a good understanding thereof. This is absurd. It is a settled legal position that where literal meaning of a statute or rule leads to an absurdity, the principle of literal interpretation need not be followed and recourse should be taken to the purposive and meaningful interpretation to avoid injustice, absurdity and contradiction so that the intent of the purpose of Legislature is given effect to. Therefore, a meaningful and practical interpretation has to be given to the corrigendum dated March 30, 2010 and same should be interpreted as follows: 'the candidate should have studied the subject concerned as mentioned in the RRs in all parts/years in which the subject was taught during the Graduation course

5. We have considered the aforesaid submissions. We are of the view that this case is squarely covered by the aforesaid judgment. Accordingly, we allow this OA and quash the impugned order dated 27.07.2016 qua the applicant. We also direct the respondents to consider the candidature of the applicant in accordance with law and offer appointment along with consequential benefit of seniority and pay fixation to the applicant if he is not ineligible for any other reason. The aforesaid benefit may be granted to him within six weeks from the date of receipt of certified copy of this order. No costs.

(Raj Vir Sharma)
Member (J)

(Shekhar Agarwal)
Member (A)

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