

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A.NO.3492 OF 2015
New Delhi, this the 30th day of November, 2015

CORAM:

**HON'BLE SHRI SUDHIR KUMAR, ADMINISTRATIVE MEMBER
&
HON'BLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER**

1. Naveen Sharma,
aged about 28 years,
S/o Sh.Dharamraj Sharma,
R/o H.No.364-F, Chirag Delhi,
New Delhil 110017,
Lastly employed at GBSSS, Chirag Delhi,
School ID 1923012

2. Darshan Singh,
Aged about 29 years,
s/o H.No.363, DDA Janta Flats,
Khirki, New Delhi 110017
Lastly employed at GBSSS, Chirag Delhi,
School I.D. 1923012

(By Advocate: Shri R.S.Kaushik)

Vs.

1. GNCT of Delhi, through its Chief Secretary, I.P.State, Govt. of NCT of Delhi, New Delhi-2
2. Director of Education, Directorate of Education, Old Secretariat, Civil Lines, Delhi-54
3. The Joint Director (Planning Branch), Planning Branch, Directorate of Education, Govt. of NCT of Delhi,

(By Advocate: Mr.K.M.Singh)

ORDER
RAJ VIR SHARMA, MEMBER(J):

The present O.A. has been filed by the applicants seeking the following reliefs:

- ö(i) To direct the respondents to reengage the applicants as Guest Teachers (TGT-English) within one week after the disposal of this O.A.
- (ii) To direct the respondents to consider applicants on duty w.e.f. 07.09.2015.
- (iii) Award costs of the proceedings.
- (iv) to pass such other and further orders which their Lordships of this Hon^{ble} Tribunal deem fit and proper in the existing facts and circumstances of the case.ö

2. Briefly stated, the case of the applicants is that they were engaged as Guest Teachers (TGT-English) by the respondents during the academic years 2010-11, 2011-12, 2012-13 and 2013-14. Their candidatures for re-engagement as Guest Teachers (TGT-English) for the academic year 2014-15 were rejected by the respondents on the ground that they had not studied English in all the three years at Graduation level. In view of the decision of the Hon^{ble} High Court of Delhi in **Govt. of NCT of Delhi & others, etc. v. Sachin Gupta, etc.**, W.P. (C) No. 1520 of 2012 and other connected writ petitions, decided on 7.8.2013, the Tribunal, vide its order dated 27.8.2015 passed in O.A.No.2210 of 2015 filed by them, held that rejection of their candidatures for re-engagement as Guest Teachers for

the academic year 2014-15 was unsustainable. Therefore, they made representations dated 31.8.2015 (Annexure A/21) to the respondents to re-engage them as Guest Teachers (TGT-English) for the academic year 2015-16. Respondent no.2 issued a public circular dated 4.9.2015(Annexure A/22), enclosing a list of candidates, who could not be engaged due to non-availability of suitable vacant posts, whereby and whereunder all the Deputy Directors of Education and Heads of Schools were directed to process the engagement of those candidates during 7.9.2015 to 9.9.2015 on the existing terms and conditions of engagement of Guest Teachers. In the list of candidates, appended to the public circular dated 4.9.2015 (ibid), the names of the applicants figured at sl.nos.393 and 408 respectively. Accordingly, the applicants reported to the concerned Deputy Directors of Education on 7.9.2015, when they were verbally informed that they could not be re-engaged again on the ground of their having not studied English in all the three years at Graduation level. Being aggrieved, the applicants submitted representations dated 8.9.2015 (Annexure A/24). Instead of considering the representation of applicant no.1, the respondents issued a list dated 10.9.2015 (Annexure A/1) wherein against the name of applicant no.1 it was mentioned that his candidature was "REJECTED BY PLANNING BRANCH". Applicant no.2 was verbally informed that his candidature was also rejected. In the circumstances, the present O.A. has been filed by them. It is the contention of the applicants that the respondents have arbitrarily rejected their candidatures for re-engagement as Guest Teachers (TGT-

English) for the academic year 2015-16. Hence, they approached the Tribunal seeking the reliefs, as referred to earlier.

3. The Tribunal, by its order dated 23.9.2015, directed the respondents to file their counter reply along with copies of the circular/letter initially issued by them regarding engagement of Guest Teachers (TGT), the public notice issued by the respondents on 28.7.2014 for engagement of Guest Teachers (TGT) during the academic year 2014-15, and the public notice/circular for engagement of Guest Teachers (TGT) during the academic year 2015-16. By the order dated 23.9.2015, *ibid*, the respondents were also directed to clarify the following queries:

- o(i) Whether a candidate without possessing B.Ed. qualification, or qualification equivalent thereto, can be engaged as Guest Teacher (TGT) against the post of TGT;
- (ii) Whether at the time of their initial engagement as Guest Teachers (TGT) the applicants had fulfilled all the eligibility qualifications;
- (iii) Whether the applicants fulfilled the eligibility criteria for being engaged/re-engaged as Guest Teachers (TGT-English) during the academic year 2015-16;
- (iv) How the applicants' names were included in the list appended to the public circular dated 4.9.2015(*ibid*);
- (v) What were the reasons for rejection of candidatures of the applicants by the Planning Branch, vide list dated 10/14.9.2015; and
- (vi) Whether there exist vacancies for re-engagement of the applicants as Guest Teachers (TGT) during the current academic year.ö

4. A counter reply, verified by Mr.N.T.Krishna, Joint Director (Planning), Directorate of Education, GNCTD, New Delhi, has been filed on behalf of all the respondents. In the counter reply, it has, *inter alia*, been stated that the applicants had not served as Guest Teachers (TGT-English)

during the academic session 2014-15. As per the circular dated 26.6.2015, the Guest Teachers, who were disengaged with effect from 9.5.2015, were to be re-engaged with effect from 1.7.2015. Therefore, the applicants were not entitled to be re-engaged as Guest Teachers during the academic session 2015-16. The applicants, who possessed B.Ed. qualification, were considered eligible and were initially engaged as Guest Teachers (TGT-English).

5. In their rejoinder reply filed on 19.11.2015, the applicants have, *inter alia*, stated that several persons, who were not engaged/re-engaged as Guest Teachers during the academic session 2014-15, but were included in the list appended to the circular dated 4.9.2015 (Annexure A/22), have been engaged/re-engaged as Guest Teachers for the academic session 2015-16. It has also been stated by the applicants that Ms.Bandana Kumari and Mr.Akash, who were not engaged/re-engaged during 2014-15, but were included in the list appended to the circular dated 4.9.2015, have been engaged/re-engaged as Guest Teachers for the academic session 2015-16. Along with their rejoinder reply, the applicants have filed a copy of the order dated 2.9.2015 passed by the Tribunal in O.A.No.2840 of 2015 (Bandana Kumari v. GNCT of Delhi and another).

6. We have perused the records, and have heard Mr.R.S.Kaushik, learned counsel appearing for the applicants, and Mr.K.M.Singh, learned counsel appearing for the respondents.

7. In their counter reply, the respondents have not specifically clarified the queries put to them by the Tribunal in paragraph 5 of the order dated 23.9.2015, *ibid*. However, it has been clearly stated by the respondents that the applicants, who possessed B.Ed. qualification and were found eligible, were initially engaged as Guest Teachers. Admittedly, the applicants were not re-engaged as Guest Teachers (TGT óEnglish) during the academic session 2014-15 by the respondents on the ground of their having not studied English in all the three years at Graduation level. No additional counter affidavit has been filed by the respondents refuting the stand taken by the applicants that the said Ms.Bandana Kumari and Mr.Akash, who were not engaged/re-engaged during the academic session 2014-15, but were included in the list appended to the circular dated 4.9.2015, *ibid*, have been engaged/re-engaged as Guest Teachers during the academic session 2015-16. Mr.K.M.Singh, learned counsel appearing for the respondents, during the course of hearing, has also not disputed that the said Ms.Bandana Kumari and Mr.Akash, who were not engaged/re-engaged as Guest Teachers during the academic session 2014-15, but were included in the list appended to the circular dated 4.9.2015, *ibid*, have been engaged/re-engaged as Guest Teachers during the academic session 2015-16. In the order dated 27.8.2015 passed in O.A.No.2210 of 2015 filed by the applicants, the Tribunal, following the decision of the Honøble High Court of Delhi in ***Sachin Gupta's case*** (supra), held that the refusal to re-engage the applicants during the academic session 2014-15 on the ground of their

having not studied English in all the three years at Graduation level, was unsustainable. Since the ground on which the applicants were denied re-engagement as Guest Teachers (TGT-English) by the respondents during the academic session 2014-15 was held unsustainable, and the respondents had initially found the applicants as eligible and engaged/re-engaged them as Guest Teachers (TGT-English) during different academic sessions prior to the academic session 2014-15, we are of the considered view that the refusal to re-engage the applicants as Guest Teachers (TGT-English) during the academic session 2015-16 solely on the ground that they were not re-engaged during the academic session 2014-15 is not justified, more so when they were included in the list appended to the circular dated 4.9.2015, *ibid*, and when other persons, who were not engaged/re-engaged during the academic session 2014-15, but were included in the said list, have been engaged/re-engaged during the academic session 2015-16.

8. In the light of our above discussions, we have no hesitation in holding that the refusal to re-engage the applicants as Guest Teachers (TGT-English) during the academic session 2015-16 solely on the ground that they were not re-engaged during the academic session 2014-15 is unsustainable. Accordingly, we direct the respondents to consider the cases of the applicants for re-engagement as Guest Teachers (TGT-English) for the academic session 2015-16 in any of the schools, where vacancies are still available, as per the scheme of engagement of Guest Teachers, and to take a decision by passing a reasoned and speaking order within a period of fifteen

days from today. It is also directed that while considering the cases of the applicants, the respondents shall not declare them ineligible for re-engagement as Guest Teachers (TGT-English) during the academic session 2015-16 on the aforesaid two grounds which have been found by the Tribunal as unsustainable.

9. In the result, the O.A. is allowed to the extent indicated above. No costs.

(RAJ VIR SHARMA)
JUDICIAL MEMBER

(SUDHIR KUMAR)
ADMINISTRATIVE MEMBER

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