

**Central Administrative Tribunal
Principal Bench**

**O.A. No. 2945/2016
M.A. No. 377/2017**

New Delhi, this the 24th day of March, 2017

**Hon'ble Mr. P.K. Basu, Member (A)
Hon'ble Dr. Brahm Avtar Agrawal, Member (J)**

Ghanshyam Yadav, Age 35 years, TGT,
S/o Sh. Babu Lal Yadav,
R/o House No.18, Gali No.2-B,
Ratan Vihar, Rajindra Park,
Gurgaon (Haryana)

.. Applicant

(By Advocate: Shri L.C. Rajput)

Versus

1. Government of NCT,
Through its
Secretary of Education,
Directorate of Education,
Old Secretariat, Delhi.
2. The Assistant Director of Education (GOC),
Directorate of Education,
Old Secretariat, Delhi
3. The Principal,
Government Co-ed Senior Secondary School,
Jhatikara, New Delhi-110043.

.. Respondents

(By Advocate: Shri Vijay Kumar Pandita)

ORDER (Oral)

By Mr. P.K. Basu, Member (A):

The issue is that the applicant, who is a Physical Training Teacher in Govt. Co-ed S.S. School, Jhatikara, had sought permission for appearing in MP Ed (Regular) Course from University

of Rajasthan, which is a Master Level Course in Physical Education. This Tribunal had permitted the applicant to undertake the MP Ed (Regular) Course, subject to final outcome of the O.A.

2. The respondents have now filed the reply along with order dated 04.11.2016 by which they have rejected the applicant's prayer to undergo MP Ed (Regular) from University of Rajasthan in the Session 2016-18 on the following grounds:

- (i) There is shortage of Teachers/Staff in the Directorate and, therefore, it has been decided that no Study Leave shall be granted till further orders.
- (ii) As per provision of Rule 7(1) of CCS Leave Rules, leave cannot be claimed as a matter of right.

3. Heard the learned counsel for both the sides.

4. It is true that such leave cannot be claimed as a matter of right, as it has been specifically mentioned in order dated 28.07.2014 (Annexure R-3). Moreover, it seems from this order that the Directorate is facing shortage of staff and, hence, has decided that no Study Leave shall be granted till further orders.

5. We are dealing herewith the field of Education and in this field, Teachers including Physical Education Teachers need to upgrade their skills for the benefit of students. It is in view of this

that this Tribunal had passed the order dated 07.09.2016 permitting the applicant to join the course.

6. It is seen that the applicant had applied to the Principal of the School for appearing in the Entrance Exam for the MP Ed (Regular) Course through his application dated 31.05.2016. The Principal forwarded this to the DDE on that very date. The applicant, on the basis of this, took the examination and was qualified. The applicant's only fault seems to be that he did not wait for the DDE's approval and proceeded to take the exam on 19.06.2016. The respondents' argument is that the Principal was not authorised to grant such permission and, therefore, the applicant should have awaited the orders of DDE.

7. Clearly, no order not to appear in the examination was issued to the applicant between the period 31.05.2016 to 19.06.2016 and the applicant presumed that he has been permitted to take the examination. In case, the Department had to reject his prayer, they had sufficient time between 31.05.2016 to 19.06.2016 to do so. Having not done so, we do not think it is fair on their part to deprive the Teacher from obtaining higher qualification at this stage.

8. The O.A. is, therefore, allowed and the respondents are directed to grant 'No Objection Certificate' as well as other benefits

due to him as per the Study Leave Rules, which are still in operation, within a month from the date of receipt of a copy of this order. No order as to costs.

(Dr. Brahm Avtar Agrawal)
Member (J)

(P.K. Basu)
Member (A)

/Jyoti/