

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench, New Delhi

O. A. No.3227/2016
with
M.A. Nos.2852/2016 & 3796/2016

Reserved on: 17.05.2017
Pronounced on:02.06.2017

Hon'ble Mr Raj Vir Sharma, Member (J)
Hon'ble Ms. Praveen Mahajan, Member (A)

1. Annu w/o Sh. Umesh Goel,
R/o 2391, Bawana Road,
Narela, Delhi -110 040.
2. Savita d/o Sh. Subey Singh,
R/o H.No.83, Block No.18,
Kalyan Puri, Delhi – 110 091.
3. Anurag Singh s/o Sh. O.P. Verkeya,
R/oC-476, Streen No.24,
Bhajanpura, Delhi – 53.
4. Kapil Kumar s/o Pramod Kumar,
R/o C-568, Aman Vihar,
Kirari Suleman Nagar,
Delhi-86.
5. Darshan Kaur d/o S. Govind Singh
B-76, Gali No.16, Kaushik Enclave,
Burari, Delhi – 110 084.
6. Nishu Goel d/o Sh. Subhash Chand Goel,
R/o 1/3233, Ram Nagar Mandoli Road,
Shahdara, Delhi -110 032.
7. Charu d/o Bijendra Pal Singh,
R/o 23-A, Idgah Road,
Street No.1 1/3, Bholanath Nagar,
Shahdara, Delhi – 110 032.
8. Dharmendra Kumar s/o Brahmvir Singh,
R/o Vill. Behzadka Post-Pilona,
Tehsil Mawana, Distt. Meerut,
UP – 250401.

9. Pooja w/o Rakesh Kumar,
R/o D-23, Raja Puri, Gali No.5,
Uttam Nagar, New Delhi-110059.
10. Ruby Tabassum d/o Aminuddin,
R/o 4520, Gali Shahtara,
Ajmeri Gate, Delhi – 110 006.
11. Payal d/ Sh. Ishwar Singh,
R/o H.No.411/14, Sanjay Nagar,
Near Sita Ram Shiv Mandir,
Rohtak (Haryana)-124001.
12. Farhana Kausar d/o Masoodul Hasan,
R/o H.No.1212, Street No.39/4,
Jafraabad, Delhi – 110 053.
13. Ruqayya d/o Rifaqut Ali,
R/o Block No.19, Mohalla Baniyo Wala,
Tehsil Mawana, Qasba-Kithore,
Post Office Kishore-250104.
14. Sundeep Ranjan w/o Sh. P.S. Ranjan,
R/o 40-D, Evershine Apartment,
Block-D, Opp. V.V.D.A.V.Public School,
Vikaspsuri, Delhi -110018.
15. Jamal Akhtar s/o Ishtiyaque Ahmed,
D-238, IVth Floor back side,
Abul Fazal Enclave, Jamia Nagar,
Okhla, New Delhi – 110 025.
16. Uzma Naaz d/o Raees Ahmed
R/o 265, Opposite Moosa Masjid,
Jamia Nagar, New Delhi – 25.
17. Meril d/o K.L. Nigam,
R/o G-12/12, Street No.4, Brahampuri,
Delhi – 110 053.
18. Sandhya Rani d/o Prem Chand Dangi,
R/o C-28/Y-2, Dilshad Garden,
Delhi – 110 095.
19. Juned Ahmad Khan s/o Zubair Ahmad Khan,
1-3, First Floor, Near PNB ATM,
Muradi Road, Batla House,
Jamia Nagar, Okhla
New Delhi – 25.

20. Afsana Baby d/o Haneef Khan
R/o M-20, Welcome Seelampur-III,
Delhi – 110 053.
21. Abdul Mannan s/o Abdul Subhan
Mahatwana, Post-Machlishahar,
Jaunpur, UP-222143.
22. Archana Rani d/o Tareshwar Singh,
B-1, Part-2, MCD Primary School,
Gaji Joharipur,
Delhi-94.
23. Indu Bhatt w/o Yogesh Dhyani,
97-C, Pocket J&K,
Dilshad Garden, Delhi.Applicants

By Advocate: Mr M.A Niyazi.

Versus

1. Government of NCT of Delhi through
Chief Secretary, New Secretariat Building,
New Delhi.
2. Directorate of Education through
Director, Govt. of NCT of Delhi,
Old Secretariat, Delhi.
3. Delhi Subordinate Services Selection Board (DSSSB)
through its Secretary,
FC-18, Institutional Area,
Karkardooma, Delhi-110092.
4. National Council for Teacher Education (NCTE) through
Member Secretary,
Wing-II, Hans Bhawan
1, Bahadur Shah Zafar Marg,
New Delhi-110002.
5. Central board of Secondary Education (CBSE) through
Joint Secretary (CTET), Shiksha Sadan,
17, Rouse Avenue,
New Delhi-110002.

6. Union of India,
 Ministry of Human Resources Development
 through Secretary,
 Department of School Education & Literacy,
 Shastri Bhawan, New Delhi.

.....Respondents

By Advocate : Ms Harvinder Oberoi for R-1 to R-3.

ORDER

By Hon'ble Ms Praveen Mahajan, Member (A):

MA No.2852/2016

For the reasons mentioned in MA No.2852/2016 filed by the applicants for joining together, the same is allowed.

OA No.3227/2016

2. The present Original Application has been jointly filed U/s 19 of Administrative Tribunals Act, 1985 by the 23 applicants seeking the following relief(s):

(a) Allow the present application and issue appropriate directions to Respondents to allow the applicants to be appointed as TGT in the Respondent No. 1 schools in Delhi in the subjects they qualified the DSSSB examination in 2016 against the advertisement 02/2012 in view of the peculiar facts and circumstances mentioned above or by directing the Respondents for relaxation of application of essential qualification of CTET at the time of verification of result in 2016 instead of at the time of submission of forms on 15.06.2012.

(b) Pass any other or further orders/directions as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case.

3. The applicants have filed MA No. 100/02852/2016 U/S 4(5) of the CAT Procedure Rules, 1987 for joining together. Since the

grievance involves similar legal issues based on similar facts and nature of relief claimed is also the same, the MA is allowed.

4. The necessary facts in a nutshell to resolve the issue involved in the OA are that the respondent No. 3 i.e., the Delhi Subordinate Services Selection Board (DSSSB) issued advertisement No. 02/2012 for the recruitment of TGT in different subjects (Annex. A/25) against the vacancies. The applicants were not CTET qualified till the cut off date i.e., 15.06.2012 of submission of applications against the said advertisement. The applicant No. 3 was not having the B.Ed. qualification as he was appearing candidate for the B.Ed. Though the B.Ed. result of applicant No. 7 was declared before the cut off date, but her certificate came after the cut off date. The applicants being not CTET qualified till 15.06.2012, left the column "whether CTET qualified", as blank and submitted the application in response to advertisement No. 02/2012 to the respondent No. 3 manually. Vide notice dated 24.10.2014, the respondent No. 3 informed all the applicants, who had filled up the forms manually, to register in OARS software and upload their photograph, signature and educational qualification/experience online for issuance of admit cards through OARS. The applicants filled up the online application as required by the respondent No. 3 keeping the column of 'CTET qualified' blank. The applicants were issued an

e-admit card and they appeared in the selection examination conducted by the respondent No. 3 for the TGT in different subjects. On 12.01.2016, the respondent No. 3 declared the result of the examination in which all the applicants were declared successful. From 28.01.2016, document verification of the successful candidates who qualified the written examination in pursuance of advertisement No. 02/2012 started. During the said verification, vide separate rejection letter annexed with the OA from Annex. A/1 to A/23, the final selection of the applicants was rejected on the ground of 'CTET qualification after cut off date'. The applicants have now come before this Tribunal seeking direction for the respondents to extend the cut off date for essential qualification upto the date of verification of the documents in the year 2016 by relaxing the essential qualification on the ground that since they were allowed to appear in the written examination and having qualified the said examination, they are now being wrongly questioned about qualifying the CTET, subsequent to the cut off date (as stipulated in the advertisement). The applicants have further stated that the Central Government authorized the National Council for Teacher Education (NCTE) as the academic authority to lay down the minimum qualifications for a person to be eligible for appointment as teacher. The NCTE vide notification dated 23.08.2013 laid down minimum qualification for the teachers.

Teacher Eligibility Test (TET), to be conducted by the appropriate Government in accordance with the guidelines framed by the NCTE for the purpose, was one of the minimum qualification therein. The NCTE came out with the guidelines vide covering letter dated 11.02.2011 (Annex. A/31). Subsequently certain amendments were also made in the Gazette notification vide notification dated 29.07.2011 (Annex. A/32). The respondent No. 2 recognized only the Central Teacher Eligibility Test (CTET) conducted by the CBSE for appointment of teachers in the schools of Delhi in lieu of any State TET (Annex. A/33). The examination of CTET conducted by the CBSE on 29.01.2012 (Annex. A/35), had the last date of receipt of application form as 30.11.2011, which did not mention the schools of NCT Delhi, whereas, the said examination conducted by the CBSE in November, 2012 clearly mentions the schools NCT of Delhi (Annex. A/36), as well as, other Central Government Schools. The last date of present DSSSB examination in question was 15.06.2012 and therefore, the candidates of Delhi had no occasion or opportunity for appearing in any of the CTET examination conducted by CBSE.

5. In counter reply, the respondents No. 1 to 3 have stated that the DSSSB while advertising the vacancies for the post of TGTs/TGT(MIL) vide advertisement No. 2/12, as well as, 1/13 mentioned in Section-C of the advertisement stipulates that the

educational qualifications, age, experience etc., as mentioned in Section-A shall be determined, as on the closing date of receipt of applications. The closing date for receipt of applications for various Post codes of TGT/TGT(MIL) was 15.06.2012 for the post code of 2012, and, 20.03.2013 for the post codes of 2013. In para No. 10(i) of Section-C of the advertisement, it was further clearly stated that the candidates, applying for the posts should ensure that they fulfil all the eligibility conditions. Merely because a candidate was allowed to appear in the examination cannot be considered as a valid ground, for his/her having become eligible for selection. If, on verification, at any time before, or after, the written examination, or at any state of recruitment process, it is found that he/she does not fulfil any of the eligibility conditions as on the closing date of receipt of application, his/her candidature for the post applied would be cancelled by the Board/Appointing Authority. The Board relied upon the information given by the applicants in the application forms and allowed their candidature for the respective post codes. However, subsequently, while processing the results for various post codes of TGT, candidates fulfilling all the eligibility criteria as on the cut off date have been considered and selected against the notified vacancies as per their merit. These applicants were well aware of the fact, while filling up the application forms, against the corresponding criteria as on the cut off date. Thus, the candidature of the candidates who

did not fulfil the eligibility condition of “having qualified CTET before the cut off date” was rejected by the DSSSB. The result for the corresponding post codes has already been declared and the DSSSB cannot review the results at this stage. The applicants merely participated in the selection proceedings. It certainly does not mean that they have a right for selection. More so, when they do not meet the selection criteria as advertised. Having accepted the terms and conditions of the selection, the applicants do not have any right to challenge the same, since they are not outside the purview of the mandatory provisions of the advertisement. The applicants themselves admitted that they did not possess the requisite CTET and B.Ed. qualification on the closing date of the receipt of the applications. Thus, the respondents No. 1 to 3 have prayed to dismiss the OA.

6. Perused the records and heard the learned counsel for the applicants and the learned counsel for the respondents No. 1 to 3 for quite some time.

7. The learned counsel for the applicants submitted inter-alia that the DSSSB accepted the application forms of the applicants twice, wherein, the applicants indicated that they were not CTET qualified by leaving the column blank. Despite that, the DSSSB accepted the application forms for the said post and issued them admit cards and allowed them to appear in the examination. The

Learned counsel for the applicants painstakingly took the Bench through the chronology of dates and reiterated the submissions already made in the OA. He emphasized that the CBSE conducted the CTET examination of 29.01.2012, and the advertisement mentioned the last date of receipt of application form as 30.11.2011. The notice (Annex. A/35) published in the October/November, 2011 mentions that the CTED shall apply to schools of Central Government (KVS, NVS, Tibetan Schools etc.) and schools under the administrative control of UT of Chandigarh and Andaman and Nicobar Islands. It did not mention the schools of NCT of Delhi. In the notice of CBSE for the examination of CTET of 18.11.2012 (Annex. A/36), it has been clearly mentioned that it applies to the schools of NCT of Delhi, as well as, other schools mentioned in earlier notice. Therefore, it is clear that cut off date of filling up forms of the present DSSSB examination in question was 15.06.2012 and there was only one CTET examination held in January 2012. Vide circular dated 26.12.2011, the Director of Education made public the notification dated 07.10.2011 making CTET compulsory in lieu of TET when the last date of filling up the form of CTET, i.e. January, 2012 had already elapsed on 30.11.2011. Therefore, the candidates of Delhi who were applying for the DSSSB examination in question for whom cut off date of eligibility was 15.06.2012, had no occasion or opportunity for appearing in any of the CTET examination conducted by the

CBSE. The learned counsel for the applicants while raising the other grounds mentioned in the OA, in his long arguments, prayed that in the peculiar facts and circumstances of the case, the respondents may be directed to relax the cut off date of essential qualification of CTET examination and the applicants may be appointed as TGT in the NCT of Delhi schools.

8. Rebutting the arguments, the learned counsel for the respondents contended that mere participation by the applicants in the selection, does not confer any right on them for selection, especially when they clearly do not meet the selection criteria, as advertised. Having accepted the terms and conditions of the selection, the applicants do not have any legal right to challenge the same now. The applicants have themselves admitted that they did not possess the requisite CTET and B.Ed. qualification on the closing date of the receipt of the applications. The candidature of the applicants who did not fulfil the eligibility condition of "having qualified CTET before the cut off date" has been rightly rejected by the DSSSB. The result for the corresponding post codes has also been declared. There is absolutely no justification or requirement for the DSSSB to review the results at this stage. Thus, the respondents No. 1 to 3 have prayed to dismiss the OA.

9. We have considered the rival contentions and also gone through the record.

10. The main relief sought by the applicants is to extend the cut off date for acquiring the CTET qualification on various grounds raised in the OA. The grounds for the relief sought are (i) acceptance of application form by the DSSSB despite the column having been left blank, regarding qualification of CTET on the cut off date; (ii) permission to participate in the selection process despite the same; and (iii) timing of introduction of essential qualification of CTET for the TGT and, validity of the same, as per various documents annexed with the OA.

11. The first question which needs to be answered is that in the facts and circumstances of the case, the cut off date, i.e. 15.06.2012 for acquiring essential qualifications for the post applied for, is valid or not? It is seen that the last date of submission of application form for the post of TGT against the notified vacancies in the advertisement No. 02/2012 is 15.06.2012. It is a well settled principle by the Hon'ble Apex Court laid down in the case of Ashok Kumar Sonkar v. Union of India, (2007) 4 SCC 54 that possession of requisite educational qualification is mandatory. If any uncertainty is allowed to prevail in this regard, the employer would be flooded with applications of ineligible candidates. A cut off date for the purpose of determining the eligibility of the candidates concerned must, therefore, be fixed. In the absence of any rule or any specific date having been fixed

in the advertisement, the law, as held by the Hon'ble Supreme Court, would be the last date of filing the application. In the instant case, the qualification and the cut off date are categorically specified. The applicants have themselves admitted that they did not possess the requisite qualification as on the said cut-off date and therefore, cannot be held eligible for the post in question.

12. The second question which needs to be addressed is that if the applicants were allowed to appear in the examination by the respondents, does it create any right in favour of the applicants to direct the respondents to relax the cut of date for acquiring the essential qualification? The answer obviously is in the negative. The Note (2) below the Section-A of the advertisement 02/2012 reads as under :

(2) Candidates must ensure that NO column is left blank or wrongly filled in either Part I or Part II of the form as the information furnished therein would be used in the recruitment process. Application Form not filled correctly, completely and as per the instructions in both Part I and Part II are liable to be rejected and the onus of such rejection would solely be on the candidate himself/herself. The Board will not entertain any claim for candidature after such rejection.

The applicants left the column of "whether CTET qualified" as blank. Despite that, the respondents issued the admit cards and allowed the applicants to appear in the examination. However, during the document verification it was found that the applicants did not possess the CTET qualification on the cut off date or

closing date, i.e. 15.02.2012. The eligibility condition (4) (1) in Section-C of the said advertisement reads as under:-

(4) (i) The educational qualifications, age experience etc. as stipulated in Section-A shall be determined as on the closing date of receipt of application.

The closing date of the submission of application form against the advertisement No. 02/2012 was 15.06.2012. The applicants' plea is that they did not furnish any wrong information in the application form. The applicants left the column blank regarding the CTET qualification, yet the respondents allowed them to appear and take part in the selection process. Subsequently, the applicants acquired the requisite qualification before the document verification. Now after fairing well in the examination, the respondents have rejected their candidature at the fag end of recruitment process of almost 04 years despite having the CTET qualification. The respondents ought to have considered the relaxation of cut off age with regard to CTET qualification in the present circumstances. On the other hand, the respondents' plea is that in para No. 10(i) of Section-C of the advertisement, it has been clearly stated that **“the candidate, applying for the posts should ensure that they fulfil all the eligibility conditions. Merely because a candidate has been allowed to appear in the examination will not be considered as a valid ground for his/her being eligible for selection. If on verification at any time before or after the written examination or at any state of**

recruitment process, it is found that he/she does not fulfil any of the eligibility conditions as on the closing date of receipt of application, his/her candidature for the post applied would be cancelled by the Board/Appointing Authority.” The Board relied upon the information given by the applicants in the application forms and allowed their candidature for the respective post codes. However, subsequently, while processing the results for various post codes of TGT, candidates fulfilling all the eligibility criteria as on the cut off date have been considered and selected against the notified vacancies as per their merit. These applicants were well aware of this fact, while filling up the application forms against the corresponding criteria about the cut off date. Thus, the candidature of the candidates who did not fulfil the eligibility condition of “having qualified CTET before the cut off date” were rejected by the DSSSB. The result for the corresponding post codes has already been declared and the DSSSB cannot review the results at this stage.

13. In our view, looking to the eligibility condition (4) (1) in Section-C of the said advertisement, the candidature of the applicants should have been rejected and they should not have been allowed to appear in the said examination in the first instance. However, be that, as it may, it is not duty of the court to protect an error committed by the DSSSB. Para No. 10(i) of

Section-C of the said advertisement cited above clearly states that, if on verification, at any time, before, or after, the written examination or, at any stage of recruitment process, it is found that he/she does not fulfil any of the eligibility conditions as on the closing date of receipt of application, his/her candidature for the post applied would be cancelled by the Board/Appointing Authority. This provision takes care of the action of rejection of candidature of the applicants, who did not possess the requisite qualification of CTET on the stipulated date. The half truth of leaving the column blank, to deliberately avoid misrepresentation on the part of the applicants cannot come to their rescue in this case.

14. A contention has also been raised by the applicants that CTET examination of 18.11.2012 conducted by the CBSE for the first time applies, to the schools NCT of Delhi. Prior to that, the said examination conducted by the CBSE in October/November, 2011 was for the Central Government Schools. Therefore, the candidates of Delhi including the applicants had no occasion or opportunity for appearing in any of the CTET examination conducted by the CBSE prior to the advertisement in question. This contention put forth by the applicants is misplaced for the simple reason that it is not their case that they were disallowed to appear in the first examination of CTET conducted by the CBSE, if

otherwise eligible. It was their own sweet will not to appear in the first CTET examination conducted by CBSE, if otherwise eligible. It is also to be borne in mind the observation made by the three-Judge Bench of the Hon'ble Apex Court in the case of Ashok Kumar Sharma v. Chander Shekhar (1997) 4 SCC 18 that like the present applicants there could be large number of candidates who were not eligible as per the requirement of rules/advertisement since they did not possess the required eligibility on the last date of submission of the application forms. A large number of such candidates may not have applied considering themselves to be ineligible, adhering strictly to the statutory rules / terms of the advertisement. Granting any benefit to the applicants would thus be violative of the doctrine of equality. Considering various judgments, the Hon'ble Supreme Court in the case of Rakesh Kumar Sharma v. Govt. (NCT of Delhi), (2013)11 SCC 58, has observed that :

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There is no obligation on the court to protect an illegal appointment. Extraordinary power of the court should be used only in an appropriate case to advance the cause of justice and not to defeat the rights of others or create arbitrariness. Usurpation of a post by an ineligible candidate in any circumstances is impermissible.

15. In order to seek direction for relaxation of cut off date, the applicants herein have also questioned the validity of CTET qualification on various grounds. The advertisement was issued in the year 2012 stipulating CTET as an essential qualification, and

willingly took part in the selection process in terms of the advertisement No. 02/2012, hence, after conclusion of the selection process, it would not be appropriate at this stage, to go into the merits of the contentions raised by the applicants.

16. The respondents have submitted that results of the corresponding post codes have already been declared. The applicants did not seek relaxation of essential qualification of CTET on 15.06.2012. They have raised this issue only at the time of verification of result in 2016. The fact remains that the applicant did not possess the requisite qualification of CTET on the cut off date. The respondents allowed them to appear in the examination. However, on verification of documents and scrutiny, having found that they lacked the CTET qualification on the cut off date, rejected their candidature. The applicants cannot be allowed the benefit of the lack of scrutiny by the respondents at initial stage on the plea that merely because they have fared well, the cut off date should now be relaxed. This would be discriminatory to the candidates who did not submit their application form because they did not possess the CTET qualification as on 15.06.2012. Whenever the applications are called for, prescribing a particular date, as the last date for filing the applications, the eligibility of the candidates has to be judged with reference to that date and that date alone. This is a well

established law/proposition. A person who acquires the prescribed qualification subsequent to such prescribed date cannot be considered at all. An advertisement or notification issued/published calling for applications constitutes a representation to the public and the authority issuing it, is bound by such representation. It cannot act contrary to it.

17. In view of discussions hereinabove made, the respondent No. 3 has rightly rejected the candidature of the applicants as they did not possess the essential qualification of CTET as notified vide advertisement No. 02/2012 on the cut off date of 15.06.2012. We see no reason to issue any direction to the respondents to relax the cut of date for such qualification. Accordingly, OA is dismissed. No costs.

18. Since no relief has been granted to the applicants, the MA No. 3796/2016 filed by the respondents No. 4 to 6 under Order 1 Rule 10 (2) CPC for deleting the name of the respondents No. 4 to 6 from the array of respondents has become infructuous at this stage. The same is disposed of accordingly.

(Praveen Mahajan)
Member (A)

(Raj Vir Sharma)
Member (J)

/Rawat/