

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

O.A. No.3925/2015

Wednesday, this the 7<sup>th</sup> day of September 2016

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

Kavita Rani (Appointment)  
Aged about 35 years  
d/o Mr. Jagbir Singh  
r/o 754, VPO Jounthy  
Delhi – 110 081

..Applicant

(Mr. M.K. Bhardwaj, Advocate)

Versus

1. Govt. of NCT of Delhi & others  
Through Chief Secretary  
Govt. of NCT of Delhi  
Delhi Secretariat, IP Estate, New Delhi
2. Delhi Subordinate Services Selection Board  
Through its Secretary  
3<sup>rd</sup> Floor, UTCS Building, Institutional Area  
Vishwas Nagar, Shahdara, Delhi – 110 032
3. The Commissioner  
North Delhi Municipal Corporation  
Civic Centre  
New Delhi

..Respondents

(Mr. Amit Anand, Advocate for respondent Nos. 1 and 2 –  
Mrs. Anupama Bansal, Advocate for respondent Nos. 3)

**O R D E R (ORAL)**

**Mr. P.K. Basu:**

The matter came up before this Tribunal earlier in O.A. No.1229/2014 filed by the same applicant, which was disposed of in terms of Order dated 11.04.2014 directing the respondents to consider her representation and pass a speaking order in the light of the Orders of this Tribunal in O.A.

No.2937/2013 – **Shri Parvesh Meena v. Govt. of NCT of Delhi & others**) and L.P.A. No.66/2000.

2. O.A. No. 2937/2013 was filed by one Mr. Parvesh Meena, which was on a similar issue, and vide Order dated 05.03.2014, relying upon the Order of the Hon'ble High Court of Delhi in W.P. (C) No.1520/2012 with connected petitions – **Govt. of NCT of Delhi & others v. Sachin Gupta**, the O.A. was allowed. The aforesaid writ petitions were filed by Sachin Gupta, Vikram Singh, Snehlata, Nainika and Neelam Rana. The Hon'ble High Court disposed of the said petitions vide Order dated 07.08.2013 and allowed the writ petition with respect to Sachin Gupta, Vikram Singh, Nainika and Neelam Rana but not in respect of Snehlata. The controversy pertaining to Neelam Rana was that whereas she had applied for TGT (English) and had done graduation in B.Sc. (Botany), but her candidature was rejected, as she has not done English as a subject in graduation. The High Court allowed the said petitions on the strength of her having obtained post graduation degree in M.A. (English).

3. Learned counsel for respondent Nos. 1 and 2 submits that the said respondents in compliance of Order dated 11.04.2014 in O.A. No.1229/2014 have passed the speaking and reasoned order dated 21.08.2014, by which the prayer of the applicant has been rejected. The grounds for rejection are quoted below:-

“After compile examination of representation of petitioner and Judgment referred by her, it is further stated as under:-

4. Whereas, Recruitment Rules are framed after assessing the eligibility conditions, nature of work/duties and educational qualification, age limits, experience etc. so notified in Recruitment Rules are closely associated with the nature of duties.

5. Whereas, Hon'ble High Court of Delhi in the matter of Sachin Gupta & Ors. V/s DSSSB & Ors. In WP (C) 7297/2007 in order dated 28.08.2008 has observed that:-

“61. With regard to passing of Hindi subject at secondary level, we are in agreement with Mr. Paul, that even though a person may possess valuable skills of the language which he may acquire at a higher level, yet absence of knowledge of the basic and rudimentary building blocks of the same may prove be detrimental while teaching small children the basis alphabets of the same language in a simplistic yet interesting manner. Superior knowledge of scriptures or the ability to write reports, features complex essays or translate complex passage may not be an adequate substitute for the basic knowledge of grammar and the skill set which is exclusive to the secondary level and essential for teaching the same to the children at the primary level. Moreover, on perusal of the Government file, we find that the relevant considerations were discussed by the concerned authorities before prescribing Hindi as a compulsory subject.

63. After discussing the case of Mrs. Manju Paul V/s Govt. of NCT of Delhi & Anr. referred to by the petitioners, this Court in Farzana case to the conclusion that the essential educational qualification of having passed Hindi at secondary level was perfectly legal, valid and not violative of Article-14 of the constitution. The observations of the coordinate Division Bench are re-reproduced herein below:-

“21. We find sufficient justification/rational in providing for the aforesaid qualifying course at secondary level of the post in question. It is neither arbitrary nor discriminatory and specific object is sought to be achieved thereby for which sufficient justification/rational is given by the MCD. Once the respondents are able to satisfy such a rationally, further prove into a policy decision like this in prescribing these qualifications in the recruitment rules, which are of statutory nature, is not permitted as per the dictum noticed in various judgments in the foregoing paragraphs.

22. We, therefore, are of the opinion that the rule in question meets the constitutional requirement and it not violative of Article-14 thereof. We accordingly find the petition bereft of any merit and therefore, dismiss the same..”

In view of the above facts, the applicant Ms. Kavita Rani can not considered for selection to the post of Teacher (Primary) in MCD, under post code 016507.”

3. The arguments of learned counsel for respondent Nos. 1 and 2 are that in W.P. (C) No.7297/2007, the Hon'ble High Court has laid down the ratio that if certain provisions are there in the Recruitment Rules, they have

to be strictly followed and cannot be bypassed in the sense that since the Recruitment Rules stipulated study of Hindi language at the secondary level, by studying Hindi at a higher level of the graduation or post graduation, no relaxation can be made for the applicant, as it would go against the Recruitment Rules.

4. We have heard learned counsel for the parties and perused various judgments cited by both sides.

5. We find that the respondents in issuing the order dated 21.08.2014 have done an incomplete job and it is, perhaps, an effort to somehow or the other reject the claim of the applicant. The Judgment relied upon by the respondents is of 2008 by a Division Bench whereas the judgment delivered in the case of Sachin Gupta is of 2013 by a Division Bench. Therefore, decision in **Sachin Gupta's** case (supra) will prevail [See **D.V. Lakshmana Rao v. State of Karnataka**, 2001 (4) KAR L.J. 185

6. Moreover, in O.A. No.1229/2014, the Tribunal had specifically directed the respondents to pass the speaking order in the light of the Order passed by the Tribunal in O.A. No.2937/2013 – **Shri Parvesh Meena v. Govt. of NCT of Delhi & others**) and L.P.A. No.66/2000, which was decided relying upon the Order of the Hon'ble High Court of Delhi in W.P. (C) No.1520/2012 with connected petitions. There is no whisper in the order dated 21.08.2014 passed by the respondents about the aforementioned Orders and why the respondents have relied on an earlier Order by the Division Bench of the Hon'ble High Court.

7. Enough litigation has gone on in this and we have ample opportunity to the respondents to examine this matter in the light of the law laid down

by the Hon'ble High Court but, as stated above, the impugned order dated 21.08.2014 has been passed by the respondents, to say the least in an extremely perfunctory manner and is only an attempt to somehow deprive the applicant of her legitimate right for appointment. Therefore, there is no point now again for us to send it back to the respondents to reconsider the case, as it would lead to further harassment of the applicant and unnecessary wastage of public funds.

8. We have gone through the facts of the case carefully and considered the legal position. In our considered view, the ratio laid down by the Hon'ble High Court in **Sachin Gupta's** case (supra), specifically with reference to Neelam Rana, squarely applies in the present case.

9. Therefore, the O.A. is allowed and the respondents are directed to appoint the applicant to the post of Assistant Teacher/ Teacher (Primary) against Advertisement No.08/2007 and Post Code Nos.164-165/2007 from the date of appointment of similarly placed persons (junior to her), with all consequential benefits of notional fixation of pay from retrospective date. Salary will be paid from the date the applicant actually joins the post. We fix a time frame of ninety days from the date of receipt of a certified copy of this Order for implementation.

No costs.

**( Dr. Brahm Avtar Agrawal )**  
**Member (J)**

**( P.K. Basu )**  
**Member (A)**

**September 7, 2016**  
/sunil/