

**Central Administrative Tribunal
Principal Bench
New Delhi**

OA No.4127/2015

Order Reserved on:03.11.2016

Pronounced on:20.12.2016.

Hon'ble Mr. Raj Vir Sharma, Member (J)
Hon'ble Mr. K.N. Shrivastava, Member (A)

Ms. Ashima,
W/o Shri Manoj Kumar Sakkarwal,
R/o House No.MU-63, 1st Floor,
Pitampura, Delhi-110034.

-Applicant

(By Advocate Shri Ajesh Luthra)

Versus

1. Govt. of NCT of Delhi
Through Chief Secretary,
IP Estate, 5th Floor,
Delhi Sachivalaya,
Govt. of NCT of Delhi
2. Delhi Subordinate Services Selection Board (DSSSB),
Through Secretary,
FC-18, Institutional Area,
Karkardooma,
Delhi-110009.
3. Director of Education (GNCT of Delhi),
Through Director,
Old Secretariat,
Delhi-110054.

- Respondents

(By Advocates Shri K.N. Singh)

O R D E R

Mr. K.N. Shrivastava, Member (A):

This Original Application (OA), has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 praying for the following specific reliefs:

- “i) quash and set aside the impugned order (Annexure A/1) to the extent it relates to the applicant
- ii) direct the respondents to further consider and appoint the applicant as TGT (English) with all consequential benefits including monetary and seniority benefits.”

2. The brief facts of this case are as under.

2.1 Delhi Subordinate Services Selection Board (DSSSB)-respondent no.2 brought out an advertisement No.02/2012 (Annexure A-2) advertising various posts for the Director of Education-respondent no.3. The applicant, who belongs to SC category, applied for the post of T.G.T. English (Female) (Post Code No.52/2010). The essential qualification for the post was that the applicant should have a Bachelor's Degree (Honours/Pass) or equivalent from a recognized University having secured 45% in aggregate, in two school subjects of which at least one out of the following should have been at the elective level:

1. English

2. Mathematics
3. Natural/Physical Science
4. Social Science.

2.2 The applicant has graduated in B. Com. (Pass) from Delhi University. She has studied English only in the 2nd and 3rd year of the graduation course and not for its entire duration of three years. There were 36 posts of TGT (English) advertised of which six were reserved for SC candidates. The respondent no.2 vide impugned Annexure A-1 notification dated 16.09.2015 has published the list of the selected candidates. The applicant's name does not figure in it. Her candidature has not been considered on the ground that she has not studied English as a subject during the entire duration of her three years graduation course. Aggrieved by the Annexure A-1 notification, the applicant has filed the instant OA.

3. Pursuant to the notices issued the respondents entered appearance and filed their reply. The case was taken up for hearing the arguments of the parties on 03.11.2016. Shri Ajesh Luthra, learned counsel for the applicant and Shri K.M. Singh, learned counsel for the respondents argued the case.

4. The learned counsel for the applicant, besides reiterating the factual matrix of the case, submitted that the Hon'ble High

Court of Delhi in its judgment dated 07.08.2013 in the case of **Govt. of NCT of Delhi & Ors. v. Vikram Singh**, [W.P. (C) No.4483/2012 (plus four other W.Ps. (C)) has dealt with the issue of elective subject and has observed as under:

“....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.

4.1 The learned counsel argued that the ibid judgment of the Hon’ble High Court has settled the issue. Applying the ratio of the said judgment, the applicant who has studied English as an elective subject for two years, as prescribed by the Delhi University for the graduation programme for students having taken B. Com. (Pass) as the subject meets the essential qualification for the post of TGT (English). As such, here candidature ought not have been rejected by the respondent no.2. He concluded by stating that the applicant is entitled for the grant of reliefs as prayed for in the OA in the light of the decision of the Hon’ble High Court of Delhi in **Vikram Singh’s** case (supra).

5. Per contra, Shri K.N. Singh, learned counsel for the respondents argued that the Annexure A-2 advertisement had clearly stated that the essential qualification for the post was that a candidate should have Bachelor’s Degree (Honours/Pass)

or equivalent from a recognised University having secured 45% marks in aggregate, in two school subjects, of which one of them should have been at the elective level. He further submitted that definition of elective subject in the Recruitment Rules (RRs) has been defined as that the candidate should have studied the subject concerned as mentioned in the RR in all parts/years of graduation. The word 'elective' may also include the main subject as practiced in different Universities. He said that the examination was conducted in two parts. The applicant qualified in Part-I and was shortlisted for evaluation of her part-II examination under SC category. She secured 80 out of 200 marks in part-II examination and as such she was in the zone of consideration under the SC category. After her documents were scrutinized, it was found that she has secured B. Com. (Pass) Degree from Delhi University but has not studied English subject in all the three years of the graduation course. For this reason she could not be considered for the post of TGT (English).

5.1 Shri Singh emphatically argued that Annexure A-2 advertisement also has clearly stated this position and hence no fault can be found with the decision of respondent no.2 in rejecting the candidature of the applicant.

6. We have considered the arguments of the learned counsel for the parties and have perused the documents and pleadings annexed thereto. Admittedly, Annexure A-2 advertisement has made it crystal clear that the candidate should have studied the subject concerned as mentioned in the RRs in all parts/years of graduation. The post involved is that that TGT (English) the intent of law makers in framing the RRs is absolutely clear that a candidate to be appointed as TGT (English) should have studied the subject during the entire duration of the graduation course. The contention of the learned counsel of the applicant that in Delhi University during the graduation course of three years for Honours or Pass Degree course in a main subject English is taught only for two years as an elective subject, and as such the applicant's candidature cannot be discarded. Implicitly, what he meant was that the applicant had no choice of her own in the matter if the University course programme ordains that English is to be taught only for two years and not for the entire preparation of three years the applicant could not have studied English in all the three years and that if the course had prescribed subject of English for all the three years by the University then the applicant could have studied English for all the three years. This argument does not carry much conviction. One should keep it in mind that the post in question is that of TGT (English). Therefore, the candidate is

required to have studied English as a subject more intensively. That is the reason why, as prescribed in the RRs, Annexure A-2 advertisement had clearly stipulated that the candidate should have studied the subject for the entire duration of the course. The applicant has acquired Degree of B. Com. (Pass). She has studied Commerce as a main subject all through the three years graduation course. In elective subject, the intensity of study is much diluted in comparison to that of the main subject. If the relief prayed for is granted to the applicant, it would amount to engaging a B. Com. Graduate to teach English, which would palpably appear to be improper.

7. Coming to the judgment of the Hon'ble High Court of Delhi in **Vikram Singh's** case (supra), we observe that the assumption of the Hon'ble High Court therein is that even after restructuring, the number of papers in English subject at the Elective level have continued to remain three of 100 marks each, albeit English (Core) is taught in just two years out of three years of graduation course and as such, there is no difference in the standard of English education imparted to the students. This assumption requires to be adjudged in terms of the actual course content. Unless it is verified and certified by a duly constituted academic body as to the standards of the English education imparted both in two and three years courses is the same, this assumption cannot be taken as a

stark reality. Hence, we are of the view that as the things stand today, the judgment of the Hon'ble High Court in **Vikram Singh's** case (supra) cannot be *ipso facto* applied to the instant case. As observed in the previous paras, the applicant is basically a Commerce Graduate and has studied English for just two years, and that too, as an Elective subject, we are, therefore, of the view that strictly in terms of the prescribed RRs, the applicant does not have the educational eligibility for the post of TGT (English).

8. In the conspectus of the discussions in the foregoing paras, we do not find any merit in the OA. The OA is accordingly dismissed.

9. No order as to costs.

(K.N. Shrivastava)
Member (A)

(Raj Vir Sharma)
Member (J)

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