

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH**

...

**ORIGINAL APPLICATION NO. 060/01010/2016**

**Chandigarh, this the 4<sup>th</sup> day of April, 2018**

...

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &  
HON'BLE MRS. P. GOPINATH, MEMBER (A)**

...

Avish Setia, son of Sh. Satish Kumar Setia, aged 29 years,  
Resident of House no.37, Sector 36-A, Chandigarh (Group-C post).

....APPLICANT

(Argued by: Shri Parveen Gupta, Advocate)

VERSUS

1. Union Territory Chandigarh, through Secretary, Education Department, First Floor, Additional Deluxe Building, Sector-9, Chandigarh.
2. Director, Public Instructions (Schools), Chandigarh Administration, Chandigarh, First Floor, Additional Deluxe Building, Sector-9, Chandigarh.

....RESPONDENTS

(By Advocate: Shri Arvind Moudgil)

**ORDER (Oral)**

**SANJEEV KAUSHIK, MEMBER (J)**

The instant Original Application (O.A.) has been filed by the applicant wherein he sought the following reliefs:-

“ (i) May kindly issue directions for summoning of the record pertaining to the selection to the posts of TGT English under the general category in the respondent-department and seek direction to be issued to the respondents to appoint the applicant on the aforesaid post particularly after the decision of the respondents taken vide notification dated 08.02.2016 and 10.03.2016 (Annexure A-5) whereby three candidates prior to the name of the applicant have been held to be ineligible and thus the applicant comes at Sr. No. 21 under the general category in order of merit i.e. the number of posts available out of 26 posts after deducting 5 posts meant for PH/ESM category.

(ii) And further to set aside the action of the respondents not granting appointment to the applicant despite coming within the zone of advertised vacancies in a wholly arbitrary, illegal and discriminatory manner and in violation of Articles 14 and 16 of the Constitution of India.”

2. Heard the learned counsel for the parties and perused the pleadings available on record with their able assistance.

3. Learned counsel appearing on behalf of respondents submits that this Original Application (O.A.) can be disposed of at this stage, with a direction to respondents to consider the claim of applicant for appointment to the post of Trained Graduate Teacher (TGT) (English).

4. Learned counsel appearing on behalf of applicants submits that the applicant possessed the requisite qualifications as prescribed for the post in the advertisement. He further submits that there are judicial pronouncements in favour of the applicant that those persons who are having qualification of Elective (English), they can be considered for appointment. Therefore, he submitted that those persons whose names were included earlier for appointment they have to go and applicant be offered appointment as per his merit. He also apprised this Court that the coordinate Bench of this Tribunal in O.A. NO. 060/00662/2015-**Shaina Sharma Vs. Union of India & Ors.** decided on 4.9.2017 has dismissed the plea raised by the ineligible persons who were not eligible in terms of advertisement that they cannot claim appointment. Therefore, once that issue has already been settled that ineligible person has to go, therefore, her plea has been negated by dismissing the petition. Therefore, as a necessary

corollary, applicant has to be offered appointment in terms of said judgment. He also placed reliance on the judgment of full Bench of Hon'ble High Court reported in 1983 (3) SLR 141- **Som Dutt Vs State of Haryana and Another** where the Lordship have held that the persons, who are not having prescribed qualification for the post cannot be considered for appointment as has been held by this Tribunal. Once, the issue has been decided that only those candidates, who are having prescribed qualification of Elective (English) are to be considered for appointment to the post, therefore, the respondents are directed to consider the claim of the applicant for appointment in the light of order passed by this Tribunal in the case of **Shaina Sharma** (supra).

5. Let the above exercise be carried out within a period of 2 months from the date of receipt of certified copy of this order. The O.A. stands disposed of accordingly.

**(P. GOPINATH)**  
**MEMBER (A)**

**(SANJEEV KAUSHIK)**  
**MEMBER (J)**

**Dated: 04.04.2018**

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