

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING : GWALIOR

Original Application Nos.202/00831/2014
& 202/00840/2014

Gwalior, this Monday, the 22nd day of October, 2018

HON'BLE MR. R. RAMANUJAM, ADMINISTRATIVE MEMBER
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

1. ORIGINAL APPLICATION NO.202/00831/2014

Rajeshwari Katare, W/o Shri Abhinav Dixit, aged 27 years,
Occupation – Unemployed, R/o LIG-145, Dr. Hari Singh Gour
Nagar, Makroni, Sagar (M.P.) 470004 **-Applicant**

(By Advocate – Shri Nirmal Sharma)

V e r s u s

1. Union of India through Secretary, Ministry of Human Resources and Development, Shashtri Bhawan, New Delhi – 110001.
2. Kendriya Vidhyalaya Sangthan through its Commissioner, 18 Institutional Area, Saheed Jeet Singh Marg, New Delhi – 110016.
3. Additional Commissioner, Kendriya Vidhyalaya Sanghthan, 18, Institutional Area, Shahedd Jeet Singh Marg, New Delhi – 110016.
4. National Council Teacher Education through its Member Secretary, Wing-II, Hans Bhawan, 1, Bahadur Shah Zafar Marg, New Delhi 110002.
5. Central Board of Secondary Education through Secretary, Shiksha Kendra-2, Community Centre, Preet Vihar, Delhi – 110092. **- Respondents**

(By Advocate – Shri Rajneesh Sharma for respondents Nos.1 to 3)

2. ORIGINAL APPLICATION NO.202/00840/2014

1. Ku. Pratibha Sen, D/o Shri Girdhari Lal Sen, aged 29 years, Occupation – Student, Resident of 3/745 Gouritnyam, near Durga Mandir, Durga Colony, Guna District Guna (MP) 473001.

2. Ku. Priyanka Yadav, D/o Shri Suresh Chandra Yadav, aged 27 years, Occupation – Student, Residence of Plot No.29, Gayatri Bihar Colony, Behind of Bhadoriya Chakki, Pinto Park, Morar Gwalior, District Gwalior (MP) 474005
-Applicants

(Applicants in person)

V e r s u s

1. Kendriya Vidhyalaya Sangathan (Head Quarter), through its Director, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi 110016.

2. The Joint Commissioner (Administration), Kendriya Vidhyalaya Sangathan, (HQ) 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi 110016.

3. Shri Rajveer, Primary Teacher, Kendriya Vidyalay, Happy Vally, Shilong.

4. Shri Ravi Kant Jangir, Primary Teacher, Kendriya Vidyalay, Sidhi.

5. Shri Kaldurgikar Shrinivas Anandrao, Primary Teacher, Kendriya Vidyalay No.1 Itanagar
- Respondents

(By Advocate – Shri Rajneesh Sharma for respondents Nos.1 & 2)

C O M M O N - O R D E R

By R. Ramanujam, AM.

As the issues raised, the facts submitted and the relief sought in the two Original Applications appear to be similar, they are taken up together and disposed of by this common order. For

the purpose of this order, reference is being made to the facts and documents mentioned in OA No.202/00831/2014.

2. The applicant has filed this Original Application seeking the following reliefs:

“8.i- The order impugned Annexure-A/1 and result of applicant Annexure-A/2 may kindly be quashed.

8.ii- Fresh result including the marks awarded in interview be declared.

8.iii- The applicant case be considered for appointment on the post of primary teacher and accordingly appointment be granted to the applicant if she found fit.

8.iv- Since Any other order which this Hon’ble Tribunal deems fit in the facts and circumstances of the case may also kindly be granted.”

3. The case of the applicant is that she participated in an eligibility examination conducted by the fifth respondent in the year 2011 to qualify for appointment as Primary Teacher in a recognised Institution such as the second respondent. She was issued with a certificate of eligibility which was valid for a period of seven years, i.e. up to 2018. The second respondent issued Annexure A-5 notification dated 29.07.2013 for appointment to various posts including the posts of Primary Teacher for which the essential and desirable qualifications were mentioned as under:

51	Primary Teacher	Essential: i) Senior Secondary School Certificate with 50% marks or Intermediate with 50% marks or its equivalent;
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		ii) Pass in the Central Teacher Eligibility Test (CTET) conducted by the CBSE in accordance with the Guidelines framed by the NCTE for the purpose. iii) Competence to teach through Hindi & English media. Desirable: Knowledge of Computer Applications.
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4. The applicant applied for the post and was declared successful in the written examination with a score of 86 out of 120. She was, however, disqualified at the time of interview on the ground that she possessed a qualification of B.Ed and had not passed the CTET conducted by the CBSE ‘in accordance with the guidelines framed by the NCTE for the purpose.’

5. It is submitted that the qualification of B.Ed was considered to satisfy the eligibility criteria by the respondents previously as well as subsequently whenever a notification for the posts of Primary Teachers was issued carrying identical provisions with regard to essential and desirable qualifications. However, the second respondent has taken the stand that the qualification of B.Ed. could not be regarded as CTET conducted by the CBSE ‘in accordance with the guidelines framed by the NCTE’ only for the years 2012-13 and 2013-14 for inexplicable reasons. It is contended that persons such as the applicant, had no control over

the CBSE with regard to how they would conduct the eligibility test and whether such test was in accordance with NCTE guidelines or not. As the CTET of CBSE was always acceptable for employment, the applicant and others appeared in the eligibility test in good faith, emerged successful and were issued with the requisite certificate.

6. It is alleged that the decision of the respondents to consider the applicant as ineligible was not only arbitrary but also discriminatory in as much as several persons with the same B.Ed. qualification had been appointed in the year 2015 without holding the NCTE guidelines against them. As such, the decision of the respondents to deny appointment to the applicant was bad in law and is liable to be quashed and set aside, it is contended.

7. Learned counsel for the respondents-KVS would, however, contest the claim of the applicant stating that in terms of the relevant NCTE guidelines, the applicant was required to possess a qualification of B.El.Ed. with focus on teaching of children in elementary schools in classes I to V. The applicant and other similarly placed persons were aware of this requirement and yet they chose to misrepresent facts at the time of submitting their applications online. It is submitted that the matter of eligibility of

the applicant and others who had B.Ed. certificates was taken up with NCTE which clarified that a qualification in B.El.Ed, was essential for teaching children in classes I to V. The applicant and other similarly qualified persons had been informed in the “Clarification Menu” of the PORTAL hoisted by the second respondent for filling in information for online submission of applications for the post of Primary Teacher wherein it was mentioned as follows:

“In accordance with the Guidelines framed by the NCTE any of the following is essential

- **4-Year Bachelor of Elementary Education (B.El.Ed.)**

Or

- **2-Year Diploma in Elementary Education**

Candidates pass in CTET but without any one of the above mentioned qualification will not be eligible for Primary Teacher (Post Code-51)”.

It is submitted that the same was also indicated in the DROP DOWN of Online application below the column of Professional Qualification as under:

“B.El.Ed/Diploma in Elementary Education.”

8. In spite of the above, the applicant chose to appear in the written examination conducted by the second respondent, fully aware of the fact that she did not possess the B.El.Ed qualification

or two years diploma in Elementary Education. Thus, it was the applicant herself who was to blame for her plight and the relief sought in this O.A is misconceived. As regards appointment of persons with similar qualifications previously as also subsequently, it is submitted that the second respondent was bound by the guidelines of the fourth respondent and could not act in violation of the same. As the aforesaid guidelines were applicable during the year 2012-13 and 2013-14, the second respondent acted accordingly in the matter of appointment of Primary Teachers during this period. The cases of discrimination alleged by the applicant pertained to the year 2015 as a result of selection made in that year and not with respect to the selection made in the year 2012-13 and 2013-14. As for the rationale of changing the requirement for two years only, it is submitted that the fourth respondent is in the best position to explain the same.

9. The applicant, by way of an amendment to the Cause Title, has impleaded the Central Board of Secondary Education (CBSE) as the fifth respondent. However, no reply has been submitted by the CBSE.

10. The fourth respondent has filed a reply which rather than answering the point raised by the applicant with regard to

justification for the change in norms only for the year 2012-13 and 2013-14 and the restoration of status quo ante thereafter, simply states that no relief had been sought against them and they are not concerned with the appointment or otherwise of the applicant in the second respondent-Institution.

11. We have considered the submissions of the rival counsel and perused the pleadings of the parties concerned along with evidence on record. It is not in dispute that the second respondent issued Annexure A-5 notification dated 29.07.2013 prescribing, inter alia, Pass in the CTET conducted by the CBSE in accordance with the guidelines framed by the NCTE for the purpose of appointment to the post of Primary Teacher. It is also not disputed that previously as well as subsequently in the year 2015, persons with B.Ed. qualification were appointed to the said post when the eligibility criteria were very much the same. The main contention of the second respondent is that they had sought a clarification from the NCTE regarding eligibility of persons with B.Ed. qualification to teach Class I to V and the fourth respondent had held that such persons were not qualified. Accordingly, the second respondent had no option but to reject the candidature of the applicant and those similarly situated.

12. The applicant, on the other hand has contended that she had participated in the CTET conducted by the fifth respondent in good faith, believing that she would be eligible to be appointed as a Primary Teacher. As a matter of fact, the fifth respondent had issued a notification regarding CTET 2011, the Note under **‘Minimum Qualifications for Classes I-V’** of which read as follows:

“i). Relaxation of 5% in minimum qualifying marks at BA/B.Sc./Senior Secondary level is admissible for SC/ST/Differently abled Candidates.

ii). **For this year only, a candidate with BA/B.Sc. with at least 50% marks and B.Ed qualification shall also be eligible for test for classes I to V, provided he/she undergoes, after appointment, an NCTE recognized 6-month special program in Elementary Education.”**

(Emphasis supplied)

It would thus appear that the applicant was considered eligible to appear in CTET 2011 provided she was willing to undergo, after appointment, an NCTE recognized 6-month special program in Elementary Education. There is no evidence of the second respondent having offered appointment to the applicant on such condition and the applicant having refused to accept the same.

13. We are in agreement with the submission of learned counsel for the applicant that the applicant had participated in the CTET in

good faith, believing that she would be eligible for appointment as Primary Teacher and that she had no control over whether the CTET was conducted by the CBSE in accordance with NCTE guidelines or otherwise. Even assuming that the notification of the fifth respondent for CTET 2011 was not in accordance with NCTE guidelines, persons such as the applicant, could not be held responsible for the same. As the applicant has alleged discrimination with factual evidence in the rejoinder, it was expected that the fourth respondent would clarify why persons such as the applicant would be ineligible for the year 2013 and 2014 alone and not persons with similar qualifications before or thereafter. However, the fourth respondent has chosen to evade the issue by merely stating that no relief had been sought against them.

14. In view of aforesaid facts and circumstances of the case, we have no hesitation in holding that decision of the second respondent to treat the applicant as ineligible at the interview stage was not only bad in law but also against the principles of natural justice as the fifth respondent had specifically provided for their conditional eligibility for the year 2011. We, accordingly, direct the second respondent to proceed with the selection of the applicant in accordance with the procedure laid down in Annexure A-5

notification from the stage she was to be called for interview. Needless to say that if she scored more marks in the aggregate than secured by the last selected candidate in her category, she shall be granted appointment as Primary Teacher along with consequential benefits. The respondents shall be at liberty to require the applicant to undergo an NCTE recognised six month special programme in elementary education, if selected. The entire exercise shall be completed with a reasoned and speaking order in respect of each of the applicants in the two OAs within a period of three months from the date of receipt of a copy of this order.

15. The O.As are allowed in the above terms. No costs.

(Ramesh Singh Thakur)
Judicial Member

(R. Ramanujam)
Administrative Member

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