

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No. 1949/2015

The 29th day of April, 2019

**HON'BLE MR. PRADEEP KUMAR, MEMBER (A)
HON'BLE MR. ASHISH KALIA, MEMBER (J)**

Mrs. Parminder Kaur,
W/o Shri Amardeep Singh,
R/o 1/9387, West Rohtash Nagar,
Shahdara, Delhi-110032
(Aged about 32 years)
(candidate for the post of TGT (English) (Female))
..Applicant
(By advocate: Mr. Ajesh Luthra)

VERSUS

1. Govt. of NCT of Delhi
Through the Chief Secretary,
5th Floor, Delhi Sachivalaya,
Govt. of NCT of Delhi
2. Directorate of Education (GNCT of Delhi)
Through Director,
Old Secretariat, Delhi-110054
3. Delhi Subordinate Services Selection Board,
Through its Chairman,
FC-18, Institutional Area, Karkardooma,
Delhi-110092

...Respondents

(By advocate: Mr. Rajnish Prasad)

ORDER (ORAL)

By Mr. Pradeep Kumar, Member (A)

The applicant has filed the present O.A. seeking the following relief(s):-

- “i) quash and set aside the impugned Result Notice No. 271 dated 17.09.2014 placed at Annexure A/1 to the extent it relates to the post of TGT (English) (Female) (Post Code 52/10);
- ii) direct the respondents to redraw the results towards post of TGT (English) (Female); or in the alternate
- iii) hold and declare that the applicant has been wrongly denied appointment to the post of TGT (English) (Female) (Post Code 20/10); and
- iv) direct the respondents to further consider and appoint the applicant to the post of TGT (English) (Female) in the Directorate of Education, GNCT of Delhi, with all consequential benefits;
- v) award costs of the proceedings; and
- vi) pass any order/relief/direction(s) as this Hon'ble Tribunal may deem fit and proper in the interest of justice in favour of the applicants.”

2. The applicant had applied for the post of TGT-(English)(Female) in response to an advertisement bearing No. 52/10 issued by the respondents for filling up 36 posts of TGT (English)(Female) in the Directorate of Education, GNCT of Delhi. The applicant, being fully eligible, duly applied for the same. She is Master's in English Language and her testimonials are annexed herewith as Annexure A/3 and her OBC certificate is annexed as Annexure A/4. The applicant has participated in the aforesaid examination vide Roll No. 5211608. She was shortlisted for evaluation of Part-II (Descriptive) answer-sheets in the UR category, though she

belongs to OBC category and she has obtained 105 out of 200 marks, as indicated in the RTI application, and she was called for submission of documents but was allegedly found deficient. Vide result notice dated 17.09.2014, the respondents published the result wherein candidates with 102 marks have been declared selected in the UR category as well as for OBC category last selected candidate had obtained 86 marks. The applicant immediately approached the DSSSB by making a representation. No action has been taken by the respondents on the representation of the applicant. Feeling aggrieved, the applicant has approached this Tribunal for redressal of her grievances.

3. Notices were issued. Detailed reply has been filed by Shri Rajnish Prasad, learned counsel for the respondents. In the preliminary submission, learned counsel for respondents submits that the applicant does not possess the essential qualification, as prescribed in the Recruitment Rules for the post of TGT (English). He has further relied upon judgment by the Hon'ble High Court in W.P.(C) No. 2514/2012 wherein a candidate namely Snehlata obtained a B.A. degree from Maharishi Dayanand University, Rohtak and she had not studied Sanskrit as a subject in any of the three years of the graduation course. After completing the graduation course in

the year 2003, she cleared three papers in Sanskrit language in an examination conducted by Maharishi Dayanand University and obtained a degree B.A.(Additional) pertaining to Sanskrit subject in the year 2004, i.e. after studying Sanskrit for only one year. In respect of which B.A. (Additional) Degree the University armed her with a document B.A. 3rd year course Sanskrit (Elective). The matter went to Hon'ble High Court. A copy of the said judgment is annexed by the respondents.

4. Heard counsel for the parties at length. The short question raised by the applicant herein is that despite having eligibility criteria, she has not been given appointment though she is having Master's in English. Hon'ble High Court of Delhi in W.P. (C) No.1520/2012 and connected cases in the matter of Govt. of NCT of Delhi and Ors. Vs. Sachin Gupta and batch, in paras 29, 40, 41 and 50 of their judgment, in which the decision rendered by the Tribunal was upheld except that the applicants will not be entitled to the back wages but would be entitled to all consequential benefits such as seniority, notional pay fixation etc. The said paragraphs read as under:-

29. The expression 'elective subject' was not defined in the Recruitment Rules.

40. To repeat, corrigendum dated March 30, 2010 prescribes that the expression 'elective subject' occurring in the Recruitment Rules means that 'The candidate should have studied the subject concerned as mentioned in the RRs in all parts/years of graduation.

The elective word may also include main subject as practiced in different universities". It is clear that the ethos of the prescription contained in the corrigendum dated March 30, 2010 that 'the candidate should have studied the subject concerned as mentioned in the RRs in all parts/years of graduation" is that the candidate should have a deep understanding of the subject in which he is desirous of imparting education to the children.

41. All universities in India do not offer a particular elective subject in all three years' of graduation course as in the case of Nainika, Vikram Singh and Sachin Gupta, where Delhi University did not teach English/Hindi/Economics in all three years of B.A. program/B.Com (H) course (s) conducted by it. If the corrigendum dated March 30, 2010 is given a literal interpretation, all such candidates who have studied concerned subject i.e. the subject for which they have applied from the Universities which are not teaching said subject in all three years' of Graduation course offered by them would be rendered ineligible for appointment to the post of T.G.T. despite the fact they have studied the concerned subject in all parts/years in which the subject is taught by the university and have a good understanding thereof. This is absurd. It is a settled legal position that where literal meaning of a statute or rule leads to an absurdity, the principle of literal interpretation need not be followed and recourse should be taken to the purposive and meaningful interpretation to avoid injustice, absurdity and contradiction so that the intent of the purpose of Legislature is given effect to. Therefore, a WP(C) 1520/2012 & conn. matters Page 18 of 24 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"

50. In view of aforesaid authoritative pronouncements, we hold that respondent Neelam Rana is eligible for being appointed to the post of T.G.T.(English), particularly when the Directorate of Education has placed no material before us to show that the person who has studied English at graduate level would be better equipped to teach English to students vis-à-vis a

person who has obtained a Post Graduate degree in English language.”

5. We fully agree with the decision given by the Hon'ble High Court of Delhi to the effect that similarly situated persons who acquired a qualification which is higher than the qualification prescribed for appointment to the post of TGT (English) and since the case of the applicant is similar to that of Neelam Rana and is eligible for TGT (English), thus the present O.A. is allowed. Accordingly, we direct the respondents to quash and set aside the result notice No. 217 dated 17.09.2014 to the extent of declaring ineligibility or/non-allocation of applicant to the post code 52/10 and direct the respondents to consider applicant for the said post, if she is otherwise eligible. The said exercise shall be done within two months from the date of receipt of a certified copy of this order. The name of the applicant shall be interpolated at appropriate place. No costs.

(ASHISH KALIA)
Member (J)

(PRADEEP KUMAR)
Member (A)

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