

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

OA No. 3226/2017

This the 21st day of May, 2019

Hon'ble Sh. A. K. Bishnoi, Member (A)

Hon'ble Sh. R. N. Singh, Member (J)

1. Pooja , D/o Sh. Vikas
R/o H. No. 113/31, Suger Mill Colony,
Rohtak, Haryana-124001
Aged about 25 years
2. Parshun, W/o Sh. Krishan
R/o VPO Khidwali, Village Jindran,
Rohtak, Haryana – 124303
Aged about 29 years
3. Preety, D/o Sh. Harkesh
R/o VPO Rindhana, Dist. Sonapat,
Haryana – 131304
Aged about 19 years
4. Sumeet Kumar
S/o Sh. Jagdish
R/o VPO Rindhana, Teh. Gohana,
Dist. Sonapat, Haryana – 131304
Aged about 21 years
5. Pooja, D/o Sh. Shile Singh
R/o H. No. 481, Shyam Colony,
Near Sriya Mill, Hissar Road,
Rohtak, Haryana – 124001
Aged about 27 years
6. Manmeet Rana, S/o Sh. Ram Kishan Rana
R/o 252, Village Khera Kalan,
North Delhi – 110082.
Aged about 22 years
(Group 'B')

... Applicants

(By Advocate: Sh. Jatin Parashar for Sh. Ajesh Luthra)

VERSUS

1. Govt. of NCT of Delhi
Through its Chief Secretary,
A-Wing, 5th Floor, Delhi Secretariat,
I.P. Estate, New Delhi.
2. Lieutenant Governor of Delhi,
Raj Niwas, Rajpur Road, Delhi.
3. South Delhi Municipal Corporation
Through its Commissioner,
9th Floor, Civic Centre, New Delhi.
4. Delhi Subordinate Services Selection Board (DSSSB)
Through its Chairman,
FC-18, Karkardooma Institutional Area, Delhi-92
5. Central Board of Secondary Education
Through its Chairperson,
'Shiksha Kendra', 2, Community Centre,
Preet Vihar, New Delhi-110092
6. Union of India
Through its Secretary
Ministry of Human Resource Development,
Shastri Bhawan, New Delhi. ...Respondents

(By Advocate: Sh. Amit Kumar and Sh. R.K. Jain)

ORDER (ORAL)

Hon'ble Sh. R.N. Singh, Member (J):

At the outset, learned proxy counsel for applicants submits that the issue involved in the present OA has already been adjudicated by this Tribunal vide order dated 16.04.2019 in OA

No. 2799/2018 titled *Akshay Rana & Ors. vs. Govt. of NCT of Delhi & Ors.*, the same reads as under:-

By filing this OA, the applicants are seeking direction to the respondents to relax the qualification of Central Teacher Eligibility Test (CTET) in the context of appointment to the post Code No.1/18 (Primary Teacher) applied for by them in pursuance to advertisement No.1/18 dated 26.6.2018 issued by the respondents.

2. We heard learned counsel for parties. During the course of hearing, learned counsel for the respondents has submitted that similar matter has already been decided by this Bench and other Benches of this Tribunal. While deciding the OA No.1916/2018 vide Order dated 26.3.2019, this Bench held as follows:-

2. We heard learned counsel for parties. During the course of hearing, learned counsel for the respondents has produced a copy of the Order dated 14.3.2019 passed in OA Nos.300, 320, 335,345, 1710, 1904, 2741, 2770 and 3084 of 2018 and 770 and 686 of 2019 and also of the Hon'ble Delhi High Court in Writ Petition (Civil) No.11328/2017 (*Annu and Others vs. Govt. of NCT of Delhi and others*) dated 11.1.2018 and submitted that the issue involved in this case is squarely covered by the said Judgments.

3. We perused the aforesaid Judgment of this Tribunal dated 14.3.2019 and found that in the said batch of O.As., i.e., O.A. No.300/2018, through a detailed judgment, the Coordinate Bench dismissed the similar issue as raised in this case, holding that the qualification of CTET cannot be exempted.

4. Learned counsel for applicants submits that the qualification cannot be insisted, particularly when there are no qualified candidates for the said posts and the posts have been remaining vacant for the past several years. We find that the qualification prescribed is in compliance with Right of Children to Free and Compulsory Education Act, 2009 and hence, the same cannot be exempted/relaxed. Further, Article 309 of the Constitution of India gives the power exclusively to the State to prescribe qualifications for posts as held by the Hon'ble Supreme Court in the case of *P.U.Joshi vs. Accountant General* (2003)2 SCC 632, the relevant portion of the same reads as under:

“10. We have carefully considered the submissions made on behalf of both parties. Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of Policy and within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India and it is not for the Statutory Tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition/substruction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/categories of service, as may be required from time to time by abolishing existing cadres/posts and creating new cadres/posts. There is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a Government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service.”

5. It is further relevant to mention that in the case of *Annu and others vs. Govt. of NCT of Delhi* (supra), the Hon'ble Delhi High Court held “that advertisement pursuant where to petitioners had applied for post of TGT, had not only laid down eligibility qualifications, but had also stated in no uncertain terms that educational qualifications shall be determined as on closing date of receipt of application. In advertisement, it had clearly stated that, it was for candidates to ensure that they fulfill all eligibility conditions and if upon

verification at any subsequent stage, it was found that they did not fulfill any eligibility qualifications, his/her candidature for post would be cancelled by respondent no.3/DSSB. Perusal of conditions clearly show that at time of applying for posts of TGT, candidates should have clear CTET examination and petitioners were well aware of fact that they did not fulfill said mandatory eligibility condition of CTET, as prescribed in advertisement, but they still chose to apply for subject post. As a result, Court find no infirmity in impugned order passed by Tribunal.”

6. Following the aforesaid Judgments of the Coordinate Bench in O.A. No.300/2018 & batch and also of the Hon’ble Delhi High Court in *Annu’s* case supra, we do not find any merit in this case and the same is accordingly dismissed. There shall be no order as to costs.”

3. In view of the above, we are also of the considered opinion that this case is squarely covered by the aforesaid Order of this Bench and as such the present OA is liable to be dismissed. Accordingly, the same is dismissed. There shall be no order as to costs.”

2. In view of the aforesaid, the present OA fails and the same is accordingly dismissed. No costs.

(R.N. Singh)
Member (J)

(A.K. Bishnoi)
Member(A)

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