

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**OA-2702/2018
MA-3011/2018**

New Delhi, this the 20th day of May, 2019

**Hon'ble Sh. A.K. Bishnoi, Member(A)
Hon'ble Sh. R.N. Singh, Member(J)**

1. Himanshi, Group-‘C’
D/o Sh. Umesh Bhati
R/o 4/107 Old Tejab Mill, Bhola Nath Nagar
Shadara, Delhi
Aged about 19 years

2. Shabin Zehra, Group ‘C’
D/o Sh. Nisar Haider
R/o B-14/35 North Ghonda Delhi-53
Aged about 20 years

3. Annu Dhama, Group ‘C’
D/o Sh. Sanjay Dhama
R/o C-89, Suda a Buri,
Mani Ganwari Road Delhi-53
Aged about 19 years

4. Nidhi Rathi, Group ‘C’
D/o Sh. Shri Pal Rathi
R/o A-38, Gali No. 1, Kanwar Singh Marg
Mukund Vihar, Karawal Nagar, Delhi
Aged about 18 years. Applicants

(through Sh. Yogesh Sharma)

Versus

1. Government of NCT, 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

(through Sh. Sameer Sharma for R. Nos. 1, 2 and 4, Ms. Anupama Bansal for R. No. 3 and Sh. Alok Kumar for Sh. Anil Srivastava for R. No. 5)

ORDER(ORAL)

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

When this matter came up for hearing, Sh. Sameer Sharma, learned counsel appearing for respondent nos. 1, 2 and 4 submitted that the matter is already covered by the order of this Tribunal in OA No. 300/2018 along with other OAs dated 14.03.2019, the operative portion of the said order reads as follows:

“10. It is fairly well settled that once an employer prescribes a set of qualifications for selection and appointment to a particular post, the question of permitting any candidate, who admittedly does not possess the essential qualification, to apply, does not arise. Public interest is of paramount consideration than the sympathy towards those who could not possess the qualification.

11-12 XXX XXX XXX

13. Reliance is also placed upon an order dated 11.01.2016 passed by the Delhi High Court in WP(C) No. 189/2016. That was a case in which a candidate responded to an advertisement issued for the post of Special Education Teacher, and though the result of her appearance in the CTET was not declared, she mentioned in the application that she is CTET qualified. She failed in the examination, and made a representation with the request to grant two years' time for acquiring CTET qualification. Apprehending that the request may not be acceded to in view of certain clauses contained in the guidelines of the Ministry of Human Resources Development, she filed an OA in this Tribunal, with a prayer to quash clause 4 of the guidelines, which prohibited relaxation. A direction was also sought to consider her case. The Tribunal has set aside the aforesaid clause, but refused to grant any specific relief to the applicant. Thereupon, she filed a writ petition. It is under those circumstances, that the High Court made the following observations:

“6. Counsel for the petitioner submits that, at this stage, the petitioner would be satisfied if a time limit is fixed to enable the respondents to consider the case of the petitioner under Section 23(2) of the Right of Children to Free and Compulsory Education Act, 2009, as per procedure laid down in the Guidelines.

7. Counsel for the respondents enter appearance on an advance copy.

8. We find the prayer of the counsel for the petitioner to be fair and just. Accordingly, we direct the respondents no. 1 and 2 to consider the case of the petitioner within a period of eight weeks from the date of receipt of this order in accordance with law. This order is without prejudice to the rights and contentions of the parties.”

From a perusal of the above, we do not find any specific finding to the effect that it is not necessary for a candidate to hold CTET qualification. Therefore, the observations of the High Court are of hardly any help to the applicants herein. Through a catena of judgments, the Hon'ble Supreme Court held that the essential qualifications prescribed for appointment cannot be relaxed.

14. Another aspect is that in case the condition is relaxed in favour of the applicants, it would lead to two anomalies. First is that the candidates who are otherwise qualified, would face competition from unqualified candidates. The second is that the relaxation cannot be in respect of the applicants alone. If at all, it is to be granted, it should be also in favour of those who, though similarly situated as the applicants herein, did not apply, being convinced that they are not qualified. Added to that, the stipulation as regards possessing the qualification of CTET is not only in respect of a post in question. Hundreds of vacancies of Teachers of other categories have been notified. The relief, if granted on the lines prayed for by the applicants, must be extended to those categories also. Lakhs of unemployed candidates participated in the written test. If the relief as prayed for is granted, the entire exercise has to be redone. That would lead to disastrous consequences, in flagrant violation of a statutory requirement.

13. (sic) We do not find any merit in the OAs. They are accordingly dismissed. Pending MAs, if any, also stand disposed of. There shall be no orders as to costs.”

2. Learned counsel for the applicants has not been able to distinguish the aforesaid judgment. Accordingly, the OA is dismissed in terms of the above order. No costs.

(R.N. Singh)
Member(J)

(A.K. Bishnoi)
Member(A)