

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

O.A. No.225 of 2018

This the 16th day of April, 2019

Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)

Babita
W/o Sh. Pureet
Age :- 28 years
Applied for :- Post of Drawing Teacher (91/17)
Group – “B” Category –
R/o House No. 135/20
Azad Nagar, Rohtak,
Haryana.

.... Applicant

(None present)

VERSUS

1. Delhi Subordinate Service Selection Board,
Through its Chairman/Secretary,
FC-18, Institutional Area,
Karkardooma, Delhi-110092.
2. Govt. of NCT of Delhi,
Directorate of Education,
Through its Director,
Old Secretariat Building,
Vidhan Sabha, Delhi-110054.

..... Respondents

(By Advocate : Shri G.D. Chawla for Ms. Harvinder Oberai for R-2, None for R-1)

O R D E R (Oral)

Ms. Nita Chowdhury, Member (A):

On 20.3.2019, it had been noticed that the applicant's counsel did not address the issue raised by him on the previous date and also that he was not present. He was given the last opportunity on 20.3.2019 to address the Court and

present his case. Today also, nobody appeared for the applicant.

2. The respondents have already filed their counter affidavits and denied all the assertions made by the applicant. Hence, we heard counsel appearing for respondent no.2 by invoking the provisions of Rule 15 of the CAT (Procedure) Rules, 1987.

3. By filing this OA, the applicant is seeking the following reliefs:-

“In the premises, aforesaid, it is most respectfully prayed that this Hon’ble Tribunal may be pleased to direct the respondents to correct the essential qualification for the post of Drawing Teacher Post Code 91/17 as per RRs and consider the candidature of applicant for the post code 91/17 under Advertisement no.04/2017 and allow the candidature of the applicant for the said post code and appoint the applicant for the said post code as per her merit with the all consequential benefits, such as pay fixation seniority etc. and any other or further order/relief which this Hon’ble Tribunal may deem fit and proper in favour of the applicant in the facts and circumstances of the case.”

4. On 20.3.2019, this Bench passed the following orders:-

“When the matter is taken up, we notice that nobody has been appearing on behalf of the applicant since 04.01.2019 and the counsel for respondent no.2 - DOE has squarely addressed the issue that the advertisement has not been issued correctly as alleged by the applicant by stating that the eligibility criterion of the post has been given as per the RRs for the same and that there is no mistake committed by them in this regard. Similarly, they have also stated that it is wrong for the applicant to allege that any qualification has been changed for Post Code No. 91/17 and as per the User Departments Revised Recruitment Rules, 2016, the said recruitment has commenced. Hence, as per their reply, as the premise on which the OA is based is

factually incorrect, nothing survives in the same. However, the applicant is given one more opportunity to present his claim.

List the case on 02.04.2019 under the caption 'PART HEARD MATTERS'.

It is made clear that no further opportunity shall be given to the applicant."

5. During the course of hearing, counsel for respondent no.2 submitted that applicant is basing her claim on the basis of essential qualification mentioned in the RRs published on 15.12.1983 for the post in question whereas the Recruitment Rules for the posts have been made and modified with prior approval of Hon'ble Lt. Governor as and when required and in the instant case also, RRs for the post of Drawing Teacher have been modified with prior approval of Hon'ble Lt. Governor and published vide notification dated 28.1.2016 and the vacancies of the said post were advertised vide advertisement no.4/17 on 20.12.2017 wherein the candidates were asked to apply for the said post as per modified Recruitment Rules. Essential qualifications for the said post are as under:-

Five years diploma in drawing/painting/sculpture/graphic art from a university/Institute Recognized by the government of India; OR

Master's Degree in Drawing and Painting/Fine Art from a recognized University; OR

Bachelor's Degree in Drawing/Painting/Fine Art plus two years full time diploma in Painting/Fine art from a recognized University/Institute.

6. Counsel further submitted that applicant has passed Bachelor of Arts (B.A.) without having any drawing subject whereas as per RRs those who have Bachelor's Degree in Drawing/Painting/Fine Art should have two years full time Diploma in Painting/Fine Art from a recognized University/Institute. Since the applicant does not process the requisite qualifications for the post in question, her candidature cannot be considered for the appointment to the said post.

7. After having perused the pleadings on record and also having regard to the submissions of learned counsel for respondent no.2, we observe that admittedly the vacancies for filling up the posts of Drawing Teacher were advertised after modification of the RRs, which was published in the Delhi Gazette on 28.1.2016, on 20.12.2017 and it is also an admitted fact that applicant having the qualification of Bachelor of Arts, Master of Arts (Final) Political Science and two years diploma in Arts & Crafts Teaching Training course. But, as per the requirements for the post of Drawing Teacher, the applicant is lacking the qualifications as prescribed in the modified RRs notified vide Delhi Gazette Notification dated 28.1.2016. It is further relevant to mention that Hon'ble Supreme Court in ***P.U Joshi & Others Vs. Accountant General, Ahmedabad & Others*** reported in 2003 (2) Supreme Court Cases 632, observed:

“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.”

Mere fact that applicant is fulfilling the eligibility criteria on the basis of RRs of 1983 of the post of Drawing Teacher, which were modified by the respondent no.2 by following the procedure prescribed for doing the same and the same were notified on 28.1.2016 and the vacancies of the post of

Drawing Teacher were advertised on the basis of modified RRs in 2017, the same does not give her any cause of action to challenge the RRs, as there is no right in any employee of the State to claim that rules governing conditions of his/her service should be forever the same as the one when he/she 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.

8. In view of the above, for the foregoing reasons, we do not find any merit in the instant OA and the same is accordingly dismissed. There shall be no order as to costs.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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