

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

O.A. No.3708 of 2018

This the 31st day of January 2019

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

INTEKHAB HASSAN (D.O.B: 14,12,1985)
SON OF SHRI NAJMUL HASSAN

Resident of :
B-79, 2nd FLOOR, OPPOSITE FIRDAUS MASJID
JAMIA NAGAR, OKHLA
NEW DELHI 110025

Also at :

LOWER RAJBARI ROAD
NEAR POLICE STATION MANBAD JHARIA
P.O. JHARIA, DISTRICT DHANBAD
JHARKHAND 828111.

....Applicant
(By Advocate : Shri Saquib Arbab)

VERSUS

1. GOVERNMENT OF NCT OF DELHI
THROUGH ITS SECRETARY
DIRECTORATE OF EDUCATION
OLD SECRETARIAT, NEAR VIDHAN SABHA
CIVIL LINES, DELHI 110054
2. DELHI SUBORDINATE SERVICES SELECTION BOARD
THROUGH ITS DEPUTY SECRETARY,
FC-18, INSTITUTIONAL AREA, KARKADOOOMA
DELHI 110092.

.....Respondents
(By Advocate : Shri Sameer Sharma)

O R D E R (Oral)

Ms. Nita Chowdhury, Member (A):

Since this matter relates to appointment, on previous date of hearing, the respondents were directed to file their

reply within 10 days' and the applicant was also directed to file rejoinder within two weeks thereafter with a rider that no further adjournment shall be given to any party and the matter was directed to be heard on the next date of hearing, i.e., today. Though respondent no.1 has filed counter affidavit on 7.12.2018, but neither respondent no.2 nor the applicant filed their respective reply & rejoinder despite clear direction of the Tribunal given in previous date of hearing. In these circumstances, we have heard learned counsel for the parties.

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

- “a) Declare the Impugned OM, i.e., the Rejection Notice bearing No. 209 dated 10.11.2017 rejecting the candidature of the Applicant for appointment to the post of Trained Graduate Teacher (Computer Science) as illegal, arbitrary, discriminatory, unreasonable, unjust, inequitable and quash and set aside the same and direct the Respondents to treat the Applicant herein at par with similarly placed candidates.
- b) Declare the Applicant as selected candidate for appointment to the post of Trained Graduate Teacher (Computer Science) and direct the Respondents to appoint the Applicant as Trained Graduate Teacher (Computer Science) from due date with all consequential benefits; and
- c) To allow the OA with cost.
- d) Pass any other order/direction as this Hon'ble Tribunal may deem fit and appropriate in the facts and circumstances of the present case.

3. The grievance of the applicant in this case is that even after having scored 81.00 marks in the entrance exam for the

post of TGT (Computer Science) – Post Code-192/14 under Physically Handicap Un-Reserved (UR-PH) category when the cut off under the said category was only 67.00, his candidature has been wrongly and arbitrarily rejected by the respondents vide Rejection Notice dated 10.11.2017 issued by Deputy Secretary, DSSSB, Government of NCT of Delhi on the ground that the applicant is not having the requisite qualification as per Recruitment Rules and hence, found to be 'Not Eligible in terms of advertisement No.01/2014'.

4. As per the Recruitment Rules for the post of TGT (Computer Science), the Essential qualifications are as under:

Essential: 1. Bachelors Degree in Computer Application (BCA) from a recognized University. (Provided that the Computer Science subject must be studied in all years as main subject).

OR

B.E./B. Tech. (Computer Science/Information Technology) from a recognized University.

OR

Graduation in any subject and 'A' level course from DOEACC, Ministry of Information & Communication and Technology, Govt. of India.

Note : Qualification are relaxable at the discretion of the Competent Authority for reasons to be recorded in writing in the case of candidates otherwise well qualified.

5. Counsel for the applicant submitted that applicant is possessing higher qualification than prescribed as per the RRs for the post in question, as the applicant is having

Higher Diploma in Software Engineering from NIIT as also Degree of Master of Computer Applications in 2015 from Jamia Millia Islamia, a Central University by an Act of Parliament) NAAC Accredited Grade 'A' and also having Degree of Bachelor of Science (Information Technology) and, therefore, rejection of the candidature of the applicant on the ground 'Not Eligible in terms of advertisement No.01/014' is not sustainable in the eyes of law.

5.1 Counsel for the applicant further submitted that since the RRs of the post in question categorically provide that qualification are relaxable at the discretion of the Competent Authority for reasons to be recorded in writing in the case of candidates otherwise well qualified and also the fact the applicant obtained 81 marks in the written examination much above the cut off 67.00 earmarked for the UR-PH category, the case of the applicant deserves to be considered for relaxation.

5.2 Counsel also submitted that Degree of Science (Information Technology) as possessed by the applicant is equivalent to the Graduation Degree in Computer Science.

6. Before advertiring to the contentions of the learned counsel for the applicant, this Court observes that it is a settled law that in academic matters, unless there is a clear violation of statutory provisions, the Regulations or the Notification issued, the Courts shall keep their hands off

since those issues fall within the domain of the expert academic bodies. The Hon'ble Apex Court in ***University of Mysore vs. C.D. Govinda Rao***, AIR 1965 SC 491, ***Tariq Islam vs. Aligarh Muslim University*** (2001) 8 SCC 546; and ***Rajbir Singh Dalal vs. Chaudhary Devi Lal University*** (2008) 9 SCC 284, has taken the view that the Court shall not generally sit in appeal over the opinion expressed by expert academic bodies and normally it is wise and safe for the Courts to leave the decision of academic experts who are more familiar with the problem they face, than the Courts generally are.

7. So far as the contention of the applicant that he is having higher qualification or equivalent qualification as prescribed in the RRs for the post in question is concerned, this Tribunal has no competence to decide about the equivalence of the qualification. It is for the expert body, like All India Council for Technical Education (AICTE) to decide the equivalence and the applicant has not brought on record any opinion of AICTE on the equivalence of the qualification of the post in question. In the absence of any such opinion, this Court is unable to accept this contention of the learned counsel for the applicant.

8. So far as another contention of the applicant that applicant's case is a fit case for relaxation is concerned, it is

the discretion of the Competent Authority to consider the cases of candidates otherwise well qualified, and, therefore, discretion cannot be claimed as a matter of right.

9. In view of the above, for the foregoing reasons, this Court does not find any infirmity or illegality in the action of the respondents while rejecting the candidature of the applicant by the impugned Rejection Notice dated 10.11.2017. Accordingly, the present OA is dismissed. There shall be no order as to costs.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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