

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

O.A. No.3732 of 2015

Orders reserved on : 30.04.2019

Orders pronounced on : 08.05.2019

Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Ms. Nita Chowdhury, Member (A)

*Birender Singh, aged about 33 years
S/o Sh. Tek Chand,
R/o VPO-Bithmara, Tehsil, Ulkana Mandi,
Disst. Hissar, Haryana.
Lastly appointed as PGT-English
At GBSSS, P-Block, Mangolpuri,
School ID: 1412090*

....Applicant

(By Advocate : Shri R.S. Kaushik)

VERSUS

1. *GNCT of Delhi, through
its Chief Secretary,
I.P. Estate, Govt. of NCT of Delhi
New Delhi-2.*
2. *Director of Education,
Directorate of Education,
Old Secretariat, Civil Lines,
Delhi-54.*

.....Respondents

(By Advocate : Ms. Neetu Mishra for Shri K.M. Singh)

ORDER

Ms. Nita Chowdhury, Member (A):

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

- “(i) to direct the respondents to consider without any further delay, the candidature of the applicant for the post of (PGT-English). The applicant is adversely effected due to non-action of the respondents for his no fault.

- (ii) to allow the OA with costs.
- (iii) to pass such other and further orders which their Lordships of this Hon'ble Tribunal deem fit and proper in the existing facts and circumstances of the case."

2. Brief facts of the case are that the applicant was working as guest teacher (PGT-English) during the session 2013-2014 and according to him, in view of judgment dated 26.11.2014 (Annexure A-6) passed by this Tribunal, he was entitled to continue as such in the next session as well. This contention at the time of admission of this OA was rejected by this Tribunal vide Order dated 8.10.2015 when this Tribunal observed that this contention cannot be accepted because according to the judgment of Annexure A-6, such guest teacher for continuity had to pass CTET/TET, but learned counsel for the applicant submitted that the applicant did not pass the same. Consequently, such guest teacher, as per said judgment, had to make representation within two weeks from the date of receipt of copy of the order but apparently no such representation was made within the said period of two weeks because first representation annexed for this purpose is dated 30.07.2015 (Annexure A-10).

3. Further grievance of the applicant is that his candidature for fresh selection for the session 2014-15 had been withheld allegedly on the ground that he had filled in incorrect percentage of marks in the application form but in fact, the alleged percentage of marks was filled up by the

computer software of the respondents when the applicant submitted online application and, therefore, his candidature could not be rejected on this ground.

4. In pursuance to notice issued to the respondents, they have filed their reply in which they specifically stated that the applicant was engaged during 10.7.2013 to 9.5.2014 for the post of PGT English. They further stated that in pursuance of directions of this Tribunal in OA No.2671/2014, candidates who represented to the Directorate were engaged subject to availability of the vacancies and fulfillment of qualifications prescribed under RRs. They further submitted that applicant submitted his representation dated 16.1.2015 and his name was referred to Distt. North West-B for processing his engagement. His name was at serial No.1856 vide I.D. No.2013128774. His case was examined by the Distt. DDE concerned and rejected for re-engagement due to discrepancies in the data entered in the online application form with regard to percentage of marks vis-à-vis the marks mentioned in the original documents.

5. During the course of hearing, learned counsel for the applicant strenuously argued that respondents have wrongly and illegally rejected the candidature of the applicant in the garb of discrepancies in the data entered in the online application form. He submitted that it was the software so designed by the respondent department for entering 65 marks

instead of 64.40% and 75% of marks instead of 74.37%. In support of his contention, learned counsel for the applicant placed reliance on the decision of this Tribunal in OA No.3492/2015 (***Naveen Sharma and others vs. GNCT of Delhi and others***) decided on 30.11.2015.

6. On the other hand, counsel for the respondents submitted that applicant himself admitted in Annexure A/8 that by his mistake, marks of Sr. Secondary class instead of 64.40, 65.00 have been entered or marks of M.A. class instead of 74.37, 75.00 have been entered in the online application form. Counsel further submitted that from the aforesaid Annexure A/8, it is clear that discrepancies in the data entered in the online application form with regard to percentage of marks vis-à-vis the marks mentioned in the original documents is due to applicant's own admission and not due to any computer software function. He further submitted that applicant himself pleaded in the said annexure A/8 for rectification of the said mistake and also for consideration of his said form.

7. From the aforesaid contention of the respondents, it is evidently clear that there were discrepancies in the application form submitted by the applicant online for the session 2014-15 with regard to wrong entry of marks when compared with the original documents. The applicant has not annexed any document or made any averments in the OA as

well as in the rejoinder that he has also applied for subsequent year(s) for consideration of his candidature for the guest teacher, as he has not even filed any Misc. application in this regard too. Subsequently, he became over-age.

8. So far as reliance placed on the order of this Tribunal in the case of ***Naveen Sharma and another*** (supra) is concerned, we have gone through the same and found that the same is not applicable to the facts of this case as in that case engagement of the applicants therein was refused solely on the ground that they were not re-engaged during the academic session 2014-15 which is not the case in hand.

9. It is relevant to mention that Govt. of NCT of Delhi had issued a public notice ON 26.5.2017, vide which they proposed to draw a panel of Guest Teachers for engagement in Delhi Government schools for the academic year 2017-18, as vide this public notice, applications were invited online from amongst the qualified youth for setting up a panel of Guest Teachers for further engagement to the post(s) of Post Graduate Teacher (PGT/Lecturer), Trained Graduate Teacher (TGT) and Misc. Teachers (for physical education, Drawing, Music, Domestic Science & Special Education Teacher categories only) as and when required by the Directorate for the Academic year 2017-18.

10. In the said advertisement, it had clearly been stated that Applications are invited online from amongst the qualified youth for setting up a panel of Guest Teachers for further engagement to the post(s) of Post Graduate Teacher (PGT/Lecturer), Trained Graduate Teacher (TGT) and Misc. Teachers (for physical education, Drawing, Music, Domestic Science & Special Education Teacher categories only) in Delhi Government Schools, as and when required by the Directorate for the Academic year 2017-18.

10.1 Further the engagement of Guest Teachers is subject to following terms & conditions:-

1. Guest Teachers shall be engaged purely on ad-hoc basis till the posts are filled up on regular basis. Guest Teachers shall not be entitled to regular appointment. This is purely a stop-gap arrangement. The candidates so engaged shall not claim salary, allowances, leaves, facilities and other benefits accruing to the regular teachers. The candidates so engaged as Guest Teachers shall not file any court case regarding salary and regularization etc.

2. Directorate of Education will maintain a wait list/panel of candidates to meet any requirement in the Academic Year 2017-18. Engagement of Guest Teachers will be done as and when required by School/District.”

11. We do not find that the applicant has anywhere in his pleadings stated that he had sought to avail the

opportunity of being appointed as Guest Teacher in view of the aforesaid public notice. Hence, he cannot really take a plea that his continuation as Guest Teacher has been denied to him by the respondents.

12. Further the issue of filling up of vacancies of Guest Teachers is still being considered by the Hon'ble Delhi High Court in Cont.Cas(C) No.1133/2016 (***Social Jurist A Lawyers Group vs. Dharmender Sharma & others***) and as per the Order dated 27.9.2017, the Hon'ble High Court passed the following orders:-

“Keeping in view the totality of the facts and circumstances, it is therefore, directed that till the adjourned date, the respondents and all other concerned shall maintain *status quo* and shall not either appoint or promote the guest teachers, which have come to be appointed from the year 2010 onwards.”

As per the information given by the respondents, no final decision has been taken in the said matter by the Hon'ble Delhi High Court and as per the Order passed on 12.4.2019, the matter is still ongoing.

13. In view of the above, we do not find any merit in the present OA preferred by the applicant. However, we give him the liberty to approach the respondents in case any relief is given to similarly placed persons by the Hon'ble Delhi High Court. The OA is disposed off accordingly. No costs.

(Nita Chowdhury)
Member (A)

(V. Ajay Kumar)
Member (J)

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