

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

O.A. No.949 of 2019

This the 25th Day of March, 2019

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

Ms. Punam Malhotra, Group B, Age 57
R/o H.No.87, Gali No.4,
Krishna Nagar,
Safdarjung Enclave, New Delhi
New Delhi-110029.

....Applicant

(By Advocate : Shri Vikas Jain)

VERSUS

1. Directorate of Education,
Government of NCT of Delhi,
(Planning Branch),
Old Secretariat,
Old Lucknow Road,
Timarpur, Delhi-110054
Through its Director & Deputy Director
2. Sarvodaya Vidyalaya,
School ID: 1719069
Sec: 2, R.K. Puram,
New Delhi-110022
Through its Principal
3. Gargi Sarvoya Kanya Vidyalaya,
Green Park Extension,
New Delhi-110016
Through its Principal.
4. Government of NCT,
Through Chief Secretary,
Delhi Secretariat,
Sachivalay Marg,
Near ITO, Vikram Nagar, New Delhi-110002.

.....Respondents

O R D E R (Oral)

Ms. Nita Chowdhury, Member (A):

Heard learned counsel for the applicant at the admission stage itself.

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

- “a) Direct the Respondents to appoint the applicant to the Post of Resource teacher w.e.f. the coming session.
- b) Direct the Respondents to pay the applicant all her consequential benefits thereof.
- c) Direct the respondents to produce all the applications record of the case along with their reply for perusal by this Hon’ble Tribunal.
- d) Pass any order/direction in favour of the Applicant and against the Respondents which this Hon’ble Tribunal deem fit and proper in the facts and circumstances of the case.
- e) Award cost of the proceedings.”

3. The applicant who was earlier engaged purely on short term as Resource Teacher on the post of TGT English from 1.12.2017 upto 31.3.2018. However, she was disengaged on 9.3.2018. The terms and conditions of her appointment also includes that she will be dis-engaged from the school as soon as a regular teacher joins the school. Her disengagement was ordered in pursuance of Order dated 1.3.2018.

3.1 Her application for re-engagement was considered by the respondents and the same was rejected by the

respondents, as is clear from Annexure A-5 annexed with the OA.

4. When this matter was taken up for consideration, this Court raised a query with regard to cause of action, as the applicants has not impugned any advertisement or order but she was simply seeking a direction to the respondents to appoint her to the post of Resource Teacher w.e.f. the coming session. Counsel for the applicant fairly submitted that although there is no cause of action at present, however, since there are vacancies of the post in question, hence, the said relief has been sought by the applicant in this OA.

5. Having regard to the observations of the Hon'ble Supreme Court in the case of ***P.U.Joshi vs. Accountant General*** (2003)2 SCC 632, which are as follows:

“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."

We also observe that 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 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. As such, at this stage, we do not

find any *prima facie* case is made out for issuance of notice to the respondents. Accordingly, the present OA is dismissed in limine.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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