

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

**O.A No. 4156/2017
M.A No. 1796/2019**

New Delhi, this the 23rd day of May, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

1. Dr. Dony Tuolte (Aged 55 years)
W/o. Mr. L. B. Tuolte
R/o. C-119, Pocket-2,
Kendriya Vihar-II, Sector-82,
Noida.

Presently posted as :
Officiating Principal
Meerabai Institute of Technology,
Maharani Bagh, Delhi.

2. A. V. Patil (Aged 62 years)
S/o. Late V. R. Patil
R/o. IV/3, G. B. Pant Polytechnic Campus,
Okhla I. A. Phase-III, New Delhi-20.

Presently posted as :

Officiating Principal
Integrated Institute of Technology,
Dwarka, Delhi.

...Applicants

(By Advocate : Mr. Sourabh Ahuja)

Versus

1. Govt. of N.C.T. of Delhi
Through its Chief Secretary,
Delhi Sachivalaya,
Players Building, IP Estate,
New Delhi.
2. Secretary/Principal Secretary,
(Technical Education)
Department of Training & Technical Education
GNCT of Delhi
Muni Maya Ram Marg,
Pitam Pura, Delhi-110 088.

3. Director
Department of Training & Technical Education
GNCT of Delhi
Muni Maya Ram Marg,
Pitam Pura, Delhi-110 088.
 4. Union Public Services Commission,
Through its Secretary
Shahjahan Road, New Delhi
 5. His Excellency Lt. Governor of Delhi
GNCT of Delhi
Raj Niwas, Shamnath Marg,
Delhi – 110 054. ...Respondents
- (By Advocate : Mr. Anuj Kumar Sharma)

O R D E R (O R A L)

Justice L. Narasimha Reddy, Chairman :

The applicants are working as HoD (MLT) and HoD (Civil Engineering) in the Government of NCTD.

2. The respondents issued an advertisement on 03.10.2017 proposing to fill the post of Principal. The applicants contend that recruitment rules for the post of Principal were amended in the year 2017 and regarding the vacancies that existed prior to that date, they are entitled to be considered in accordance with the unamended rules. Stating that their cases are not being considered in the light of the amendment carried through the notification dated 05.04.2017 and the advertisement dated 03.10.2017, direction is also sought to the respondents to consider their cases against the vacancies that existed prior to the date of amendment.

3. The respondents filed counter affidavit and opposed the O.A. It is stated that new rules of recruitment framed on the recommendation of the AICTE are totally different from the old ones in the context of pay structure and qualifications for the post. It is stated that no valid grounds are raised for challenging the advertisement and that it is proposed to fill the posts as per the newly prescribed qualifications.

4. We heard Mr. Sourabh Ahuja, learned counsel for applicants and Mr. Anuj Kumar Sharma, learned counsel for respondents.

5. The very issue relating to amendment to the recruitment rules to the post of Principal, was dealt with by this Tribunal in O.A No. 3146/2015. Through order dated 30.04.2019, it was held that it is competent for the department to amend the rules but the vacancies that existed before the date of amendment need to be filled, in accordance with the unamended rules. The relevant portion reads as under :-

“11. Recently, a Full Bench of this Tribunal dealt with the very question in OA No.4320/2012 B. S. Madhav Rao and Others vs. Union of India decided on 30.04.2019, and it was held that the amended rules pertaining to promotions cannot be applied to the vacancies that existed prior to the amendment came into force.

12. It is brought to our notice that the Recruitment Rules for the post of Principal (Polytechnic) were amended in the year 2017. The case of the applicant needs to be considered for the post of Principal. If it becomes impermissible for the respondents to put him in the post of Principal as contained

in the amended rules, he needs to be considered for the post of Principal (Boys Polytechnic) with the attached scale of pay. Other similarly situated eligible candidates also need to be considered after giving them option.

13. We, therefore, allow the OA setting aside the impugned communication dated 16.07.2015. The respondents shall convene the DPC to consider the case of the applicant for the post of Principal in accordance with the unamended Rules of 1969. We make it clear that in the event of applicant being selected and appointed to the post, he shall be entitled to draw the scale of pay attached to that post, before the rules were amended. The respondents shall, however, be entitled to apply the amended rules for the post that have arisen subsequent to the date on which the amendment came into force. Exercise in this behalf shall be completed within a period of four months from the date of receipt of certified copy of this order.

There shall be no order as to costs.”

6. The applicants herein stand on the same footing, In case there exists any vacancy of the post of Principal, before the amendment to the rules was notified, the applicants need to be considered against those, as per the unamended rules.

7. Learned counsel for respondents submits that the applicants are not eligible to be promoted to the post of Principal even under the unamended rules. If that is so, an exercise in this behalf will have to be undertaken and if it emerges that they are not eligible to be promoted under the relevant rules, the applicants may be informed accordingly. We, therefore, dispose of the O.A :

(a) Upholding the amendment to the recruitment rules for the post of Principal and the advertisement dated 03.10.2017 insofar as it relates to the posts that arose after the rules were amended.

(b) directing that the respondents shall consider case of the applicants for the post of Principal against the vacancies that existed before the amendment to the recruitment rules. It is needless to mention that if they are not eligible according to the unamended rules also, the same shall be informed to them.

8. The exercise in this behalf shall be completed within three months from the date of receipt of a certified copy of this order. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/Mbt/