

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.1707/2018

Thursday, this the 28th day of February 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

1. Kendriya Vidyalaya Pragatisheel Shikshak Sangh
HQ No.78, Village Tatesar, PO Jaunti, Delhi – 81
Through its General Secretary, KVPSS
Priyavart Chhikara, aged 55 years
s/o late Sh. Tej Ram
HQ H.No.78, Village Tatesar, PO Jaunti, Delhi – 81
2. Harish Kumar Siwasiya, aged 42 years
s/o Sh. Sukh Lal
working as PGT (History), K V No.4 Bhatinda Cantt.
r/o K.V. No.4 School, Campus, Bhatinda
3. Surender Kumar, aged 42 years
s/o Sh. Jai Bhagwan
working as PGT (Phy.)
KV BSF Camp Chhawla, New Delhi – 71
r/o H.No.548, Opp. Govt. dispensary, Jharoda Kalan
South West, Delhi – 72
4. Puspendra Singh, aged 42 years
s/o sh. Narendra Singh
working as PGT (Geo)
KV BSF Camp Chhawla, New Delhi – 71
Permanent r/o H.No.132
Sanskar Vihar, Near Alankar
PG Girls College, Panchawala Sirsi Road, Jaipur (Raj.)
5. Sunil Kumar Kaushik, aged 42 years
s/o Sh. Rohtas Kumar Kaushik
working as PGT (History)
KV Puship Vihar, New Delhi
r/o 96, Khanpur, New Delhi - 62

..Applicants

(Mr. Yogesh Sharma, Advocate)

Versus

Union of India through

1. Kendariya Vidyalaya Sangathan
Through the Commissioner

18 Institutional Area, Shahzeed Jeet Singh Marg
New Delhi

2. The Joint Commissioner (Admn.)
Kendariya Vidyalaya Sangathan
18 Institutional Area, Shahzeed Jeet Singh Marg
New Delhi – 110 016

..Respondents

(Mr. S Rajappa, Advocate)

O R D E R (O R A L)

Justice L. Narasimha Reddy:

The 1st applicant is an Association of teachers in the Kendriya Vidyalayas and the applicant Nos. 2 to 5 are the Post Graduate Teachers (PGTs) in different schools of the Kendriya Vidyalaya Sangathan (KVS), the 1st respondent herein. The appointment to the post of Vice Principal in the KVS is through three methods, i.e., 50% by way of direct recruitment, 25% by way of Limited Departmental Competitive Examination (LDCE) and remaining 25% by way of promotion, on the basis of seniority from the post of PGT. In the context of LDCE, PGTs in the Pay Band of ₹9300-34800 with Grade Pay of ₹4800/- with five years of regular service or with ten years of combined regular services as PGT in the Pay Band of ₹9300-34800 with Grade Pay of ₹4800/- and TGT in the Pay Band of ₹9300-34800 with Grade Pay of ₹4600/-, out of which three years service shall be as PGT, are eligible. The applicants complied with those conditions.

2. A notification dated 09.04.2018 was issued by the 1st respondent proposing to fill as many as 146 posts of Vice

Principal. They included the vacancies from the years 2014-15 to 2018-19. The applicants contend that they became eligible to be considered for posts, referable to the academic years, up to 2017-18. However, on account of an Office Memorandum (O.M.) dated 21.09.2017, through which the Recruitment Rules, as regards the post of Vice Principal, were amended w.e.f. 01.04.2017, they are rendered ineligible, for that period

3. This O.A. is filed challenging the O.M. dated 21.09.2017, insofar as it has amended the Recruitment Rules, with retrospective effect from 01.04.2017. The applicants contend that it is competent for the 1st respondent to prescribe or amend the Recruitment Rules, but they cannot take away the rights that have accrued to them, on the basis of existing set of Rules.

4. The respondents have opposed the O.A. It is stated that the decision to amend the Recruitment Rules was taken by the Board of Governors of the 1st respondent on 15.11.2016 and the same was notified through O.M. dated 21.09.2017, to be effective from 01.04.2017, the commencement of the academic year.

5. We heard Mr. Yogesh Sharma, learned counsel for applicants and Mr. S Rajappa, learned counsel for respondents.

6. The Recruitment Rules for various posts in the KVS are framed in the year 2014, vide O.M. dated 04.03.2014. As observed earlier, the appointment to the post of Vice Principal is through

three different methods. The qualifications prescribed for appointment through LDCE are prescribed as under:-

“By Limited Departmental Competitive Exam:-

PGTs in the Pay band of Rs.9300-34800 with Grade Pay Rs.4800/- with 05 years regular service.

OR

10 years combined regular services as PGT in the Pay band of Rs.9300-34800/- with Grade Pay of Rs.4800/- and TGT in the Pay Band of Rs.9300-34800/- with Grade Pay of Rs.4600/- out of which 03 years as PGT.”

7. The applicants contend that they fulfil these conditions as on 09.04.2018, the date on which Notification proposing to fill 146 posts of Vice Principal was issued. However, on account of the impugned O.M. dated 21.09.2017, they became ineligible for the post, that are referable to the period up to the academic year 2017-18. The O.M. reads as under:-

“Subject: Revision of Recruitment Rules for Vice-Principal post in KVS.

The Board of Governors of Kendriya Vidyalaya Sangathan in its 106th meeting held on 15.11.2016 has approved the revised Recruitment Rules for the post of Vice-Principal in Kendriya Vidyalaya Sangathan.

The revised Recruitment Rules for the post of Vice-Principal effective from 01.04.2017 are circulated herewith for general information.

This issues with the approval of the competent authority.”

The amendment, which is carried out through this O.M. reads as under:-

“By Limited Departmental Competitive Examination

From amongst PGTs serving in Kendriya Vidyalaya Sangathan with 05 years regular service in the grade.”

8. The facility of combined service of ten years as PGT and TGT, subject to a minimum three years of service as PGT, is totally dispensed with, in the case of LDCE. Even if this were to have been in force on 21.09.2017, all the applicants have been qualified. On account of the stipulation of the date, i.e., 01.04.2017, all or some of them have become ineligible, as regards the vacancies of certain years.

9. It is fairly well settled that though the appointing authority has a right to prescribe or amend the Recruitment Rules, it cannot take away the rights of the employees, that have accrued to them, prior to the process of amendment. By 21.09.2017, a right had accrued to the applicants herein or such of PGTs, who have put in ten years of combined service as PGT and TGT with a minimum of three years as PGT, to participate in the LDCE. The impugned O.M. has the effect of taking away the rights w.e.f. 01.04.2017. In other words, the TGTs, who were to be qualified between 01.04.2017 and 21.09.2017, are rendered ineligible. This is totally impermissible in law. Therefore, the impugned O.M. has

to be interpreted in such a way that the amendments carried through it are prospective in nature, i.e., w.e.f. 21.09.2017 itself.

10. An interim order was passed by this Tribunal on 27.04.2018 directing the respondents to permit the applicants to participate in the LDCE. However, the declaration of the result was stayed.

11. We, therefore, allow this O.A. holding that the impugned O.M. dated 21.09.2017, insofar as it amends the eligibility criteria for appointment to the post of Vice Principal, through mechanism of LDCE, shall be prospective in operation from 21.09.2017. The result of the examination held for selecting candidates for the post of Vice Principal through LDCE shall be declared and such of the applicants, who are qualified therein, shall be appointed as Vice Principal, subject to their fulfilling other conditions. We make it clear that if the applicants have any other grievance vis-à-vis amendment to Recruitment Rules, it shall be open to them to pursue their remedies, through appropriate proceedings.

There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

February 28, 2019
/sunil/