

Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.2998/2019

M.A.No.3318/2019

M.A.No.3319/2019

With

O.A. No.3001/2019

M.A.No.3321/2019

M.A.No.3322/2019

Thursday, this the 10th day of October 2019

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

O.A. No.2998/2019

1. Sonali, aged about 28 years
d/o Sh. Ram Kumar Gupta
r/o H.No.D-709/2, Gali No.7,
Ashok Nagar Mandoli North East
Delhi – 110 093
Post : Assistant Teacher (Primary)
Post Code : 15/19
Group B
2. Sushma Devi, aged about 29 years
d/o Sh. Prem Chand
r/o H.No.48, Block No.1, Kanoh-58
Hisar, Haryana 125112
Post : Assistant Teacher (Primary)
Post Code : 15/19
Group B
3. Mubarik Hussain, aged about 29 years
s/o Sh. Babu Khan
r/o 16, Guru Ravidas Mandir Swarn Park
Ashok Viharm, Delhi – 110 052
Post : Assistant Teacher (Primary)
Post Code : 15/19
Group B
4. Anil Kumar, aged about 28 years
s/o Sh. Bijendra Singh
r/o 507, Hindon Vihar, Meerut Road
Post Nandgram Ghaziabad,
Uttar Pradesh – 201003
Post : Assistant Teacher (Primary)

Post Code : 15/19
Group B

5. Rama Nand Sharma, aged about 25 years
s/o Sh. Jai Bhagwan Sharma
r/o H.No.606/16-A, Krishna Gali No.8
Adarsh Mohalla, Maujpur, Delhi – 110 053
Post : Assistant Teacher (Primary)
Post Code : 15/19
Group B
6. Sirajuddin, aged about 25 years
s/o Sh. Shahabuddin
r/o C-9/22, Kh-92, Gali No.05,
Kabir Nagar, Delhi – 110 094
Post : Assistant Teacher (Primary)
Post Code : 15/19
Group B
7. Gulshan Chauhan,
Aged about 28 years
s/o Sh. Rajpal Singh
r/o 352, Firni Road, Village
Bakhtawarpur, Delhi – 110 036
Post : Assistant Teacher (Primary)
Post Code : 15/19
Group B
8. Pawan Kumar, aged about 29 years
s/o Sh. Lajja Ram
r/o 34-A, Sainik Vihar Mohan Garden
New Delhi – 110 059
Post : Assistant Teacher (Primary)
Post Code : 15/19
Group B

..Applicants

(Mr. Anuj Aggarwal and Mr. Tenzing Thinlay Lepcha,
Advocates)

Versus

1. Delhi Subordinate Services Selection Board (DSSSB)
Through its Chairman
Govt. of NCT of Delhi
FC-18, Institutional Area
Karkardooma, Delhi – 110 092
2. Directorate of Education
Through Director of Education
Govt. of NCT of Delhi

Old Secretariat Building
Civil Lines, Delhi – 110 054

..Respondents

(Ms. Esha Majumdar, Advocate)

O.A. No.3001/2019

1. Neelam d/o Sh. Nafe Singh
(Group B, Primary Teacher)
(aged about 27 years)
r/o 160, Veena Enclave,
Nangloi, New Delhi – 41
2. Priyanka Sharma d/o Shreepal Sharma
(Group B, Primary Teacher)
Aged about 29 years
Add –B, Block Flat No.38
Police Colony Bhajanpura, Delhi – 110 053
3. Sonia Sharma, (aged about 27 years)
(Group B, Primary Teacher)
d/o Jai Bhagwan Sharma
Add. Sector 26, Pocket B Dwarka
Flat No.153 B Phase 3 Barthal
South West Delhi, Delhi – 110 077
4. Madhuri d/o Sudesh Chander
Aged about 29 years
(Group B, Primary Teacher)
Add. H.No.C-32/B
Shiv Vihar Karala,
North West Delhi – 110 081
5. Mohit Kumar Sharma, (aged about 27 years)
(Group B, Primary Teacher)
s/o Nirankar Dass
Add. A/82 Street -2, Tomar Colony
Burari, New Delhi – 110 084
6. Preeti (aged about 27 years)
(Group B, Primary Teacher)
d/o Dharamvir Singh
Add. Kanal Rest House Ch. Dadri, Haryana
7. Vivek Shukla (aged about 25 years)
(Group B, Primary Teacher)
s/o Ram Prakash Shukla
Add. A-70/UG-2 Shalimar Garden
Extension II, Sahibabad, Uttar Pradesh

8. Varun Kumar Jainth (aged about 31 years)
(Group B, Primary Teacher)
s/o Sh. Dilawar Singh
Add. H.No.2/20, Street No.3
Jagjeevan Nagar
Loni Road Shahdara, Delhi – 93
9. Rahul s/o Kishanpal, aged about 25 years
(Group B, Primary Teacher)
Add. E-5/90, East Gokalpuri, Delhi – 94
10. Ruby Garg w/o Harish Goyal
(Group B, Primary Teacher)
Aged about 27 years
Add.C-41, C Block Unchepar
Mandawali Fazalpur, East Delhi – 110 092
11. Gaurav Sharma s/o Girjesh Datt Dharma
(Group B, Primary Teacher)
Aged about 25 years
Add. H.No.135 Village
Banthala Post Loni
Distt. Ghaziabad UP 201102
12. Ritu Aggarwal d/o Hari Mohan Aggarwal
(aged about 27 years)
(Group B, Primary Teacher)
Add. RZ-34, H. Gali No.3/4
Main Sagar Pur, New Delhi – 110 046
13. Preety Rani w/o Amit Kumar
(Group B, Primary Teacher)
Aged about 27 years
Add. RZ-106A P3 Gali No.11
New Roshan Pura
Najafgarh, South West Delhi
Delhi – 110 043
14. Harsha Sahu, aged about 29 years
(Group B, Primary Teacher)
d/o Subhash Chandra Sahu
Add. 553 Shiv Mandir Ki Gali Modak
(CT) Ramganjmandi, District Kota
Rajasthan 326517
15. Rakesh s/o Satnarayan
(Group B, Primary Teacher)
Aged about 27 years
Add. Chotu Ram Park
Gali No.6, Makkan No.610

Bahadurgarh, Jhajjar,
Haryana 124507

16. Rashmi Singh d/o Raj Sahab Singh
(Group B, Primary Teacher)
Aged about 24 years
Add. 290, NH 56 Near of Bale Mia Kunve
Singhawal
Singhawal Jounpur, Singramau
Uttar Pradesh – 222 175
17. Vinay Pratap Singh, aged about 32 years
(Group B, Primary Teacher)
Add. RZG-136, Gali No.08
Vishwas Park, Uttam Nagar
West Delhi, Delhi – 110 059
18. Vinay Kumar (aged about 28 years)
s/o Ramesh Chandra Gupta
(Group B, Primary Teacher)
Add. D-765, Part 2
Qutab Vihar Goyla Dairy, Delhi – 110 071
19. Sujata d/o Satya Narain (age 27)
(Group B, Primary Teacher)
Add. 104, Kheri Road
Gandhi Nagar, Ganaur
Sonipat, Haryana 131101
20. Uma d/o Karam Singh
(Group B, Primary Teacher)
Aged about 28 years
Add. Gumare (139)
Sonipat Haryana 131101
21. Ravinder Kumar s/o Raj Kumarboo
(Group B, Primary Teacher)
Aged about 29 years
Add. Kaliwas (146)
Khachrauli, Jhajjar, Haryana 124106
22. Brijesh Manchanda, aged about 31 years
(Group B, Primary Teacher)
s/o Laxman Swaroop Manchanda
Address C-42, Ist Floor
Jeevan Park, Uttam Nagar
New Delhi – 110 059
23. Pawan Kumar Arora, aged about 31 years
(Group B, Primary Teacher)

s/o Vinod Arora
Address L-94, Mangol Puri, Delhi – 110 083

24. Dinesh s/o Sh. Dharmbir Singh
(Group B, Primary Teacher)
Aged about 28 years
Address RZ 27/A, M S Block
Roshan Garden
Najafgarh, New Delhi – 110 043
25. Vinod Kumar s/o Kameshwar Shah
(Group B, Primary Teacher)
Aged about 32 years
Address B-341, Mohan Garden
Uttam Nagar, New Delhi – 110 059
26. Ashish Kumar Chatirvedi,
Aged about 29 years
(Group B, Primary Teacher)
s/o Yagya Nath Chatirvedi
Address H.No.85A, Gali No.13
Pradhan Enclave, Baprolla
New Delhi – 110 043

..Applicants

(Mr. V Elanchezhian and Mr. Vivek Yadav, Advocates)

Versus

1. Govt. of NCT of Delhi
Through the Chief Secretary
Delhi Secretariat, 3rd IP Estate, New Delhi – 110 002
2. Directorate of Education (NCT of Delhi)
Through Director
Old Secretariat Near Vidhan Sabha
Civil Lines, New Delhi – 110 054
3. Delhi Subordinate Services Selection Board
Through its Secretary/Chairperson
FC-18, Institutional Area, Karkardooma
Delhi – 92
4. The National Council for Teachers Education
Rep. By the Member Secretary
Wing II, Hans Bhawan
Bahadur Shah Zafar, New Delhi – 110 002

..Respondents

(Ms. Esha Majumdar, Advocate for respondent Nos. 1, 2 & 3)

O R D E R (ORAL)**Justice L. Narasimha Reddy:**

In these two O.As., the applicants challenged the validity of the Advertisement No.03/19 dated 05.09.2019 issued by the Delhi Subordinate Services Selection Board (DSSSB). The Advertisement is in respect of three categories of teachers, including the post of Assistant Teacher (Primary), with Post Code No.15/19. The qualifications for the said post are stipulated in as many as 5 alternatives. The applicants are the holders of B.Ed. degree.

2. The contention of the applicants is that under the Right of Children to Free and Compulsory Education Act, 2009 (for short “the Act 2009”), the academic authority, namely, the National Council for Teacher Education (NCTE), is conferred with the power to stipulate the qualifications for appointment to the different categories, and that in the recent past the NCTE has stipulated the graduation with B.Ed. degree as a qualification for appointment of teachers to any category.

3. The applicants contend that the Recruitment Rules (RRs) framed by the Delhi Administration are illegal and arbitrary, insofar as they do not accord with the qualifications stipulated by the NCTE. While in O.A. No.2998/2019, the applicants claim the reliefs of setting aside the RR as well as the Advertisement, insofar as they do not contain the stipulated qualifications, in

the other O.A., i.e., O.A. No.3001/2019, relief is claimed in the form of a direction to the respondents to treat the applicants as qualified.

4. We heard Mr. Anuj Aggarwal, learned counsel for applicants in O.A. No.2998/2019, Mr. V. Elanchezhian, learned counsel for applicants in O.A. No.3001/2019 and Ms. Esha Majumdar, learned counsel for respondents in O.A. No.2998/2019 and respondent Nos. 1, 2 & 3 in O.A. No.3001/2019, at the stage of admission, at length.

5. The qualifications stipulated in the Advertisement for the post of Assistant Teacher (Primary) read as under:-

“1. Senior Secondary (or its equivalent) with at least 50% marks and 2-years Diploma in elementary education (by whatever name known) from a recognized Board.

OR

Senior Secondary (or its equivalent) with at least 45% marks and 2-years Diploma in elementary education (by whatever name known) in accordance with the NCTE (recognition norms and procedure) regulations-2002.

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4-years Bachelor of elementary education (B.El.Ed.)

OR

Senior Secondary (or its equivalent) with at least 50% marks and 2-years Diploma in Education (special education) from a recognized Board.

OR

Graduation and 2-years Diploma in elementary education (by whatever name known) from a recognized Board.

2. Pass in the Central Teacher Eligibility Test (CTET) conducted by the Central Board of Secondary Education (CBSE).

3. Must have passed Hindi or Urdu or Punjabi or English as a subject at Secondary Level.”

6. Three essential qualifications are stipulated. The first is contained as many as 5 alternatives. The second is about holding a pass in the Central Teacher Eligibility Test (CTET) conducted by the Central Board of Secondary Education (CBSE). The third is about pass in language at Secondary Level.

7. The Delhi Administration has framed the RRs for various posts of teachers. It is not the case of the applicants that the qualifications, which are stipulated in the Advertisement, do not accord with those in the RRs. Their grievance is that a qualification, which is stipulated by the NCTE through its notification dated 28.06.2018, is not included in the Advertisement, or for that matter, the RRs. The qualification, which is suggested by the NCTE in the said notification, reads as under:-

“(I) In the said notification, in para I in sub-para (i), in clause (a) after the words and brackets “Graduation and two year Diploma in Elementary Education (by whatever name known), the following shall be inserted, namely:-

OR

“Graduation with at least 50% marks and Bachelor of Education (B.Ed.)”

2. In the said notification in para 3, for sub-para (a), the following sub-para shall be substituted namely:-

“(a) who has acquired the qualification of Bachelor of Education from any NCTE recognized institution shall be considered for appointment as a teacher in classes I to V provided the person so appointed as a teacher shall mandatorily undergo a six month Bridge Course in Elementary Education recognized by the NCTE, within two years of such appointment as primary teacher.”

8. It may be true that a graduation with at least 50% marks and B.Ed. is treated as a qualification for appointment to the post of teacher of a particular category. The fact, however, remains that it is for the concerned State Governments to adopt the same in their RRs.

9. Reliance is placed on Section 23 of the Act 2009. That empowers the academic agency, to prescribe the qualifications. It is not uncommon that specialized agencies, such as Medical Council of India, All India Council for Technical Education & Dental Council of India, prescribe the norms to be followed by the institutes, which impart the education in respective specializations. In the context of implementation of those norms, the Councils do not play a direct role. It is only at the stage of the recognition or renewal thereof, that they would verify that the norms stipulated by them are followed. Such agencies do not verify, at the ground level, about implementation thereof.

10. The stipulation of the qualifications for the post of Teacher by the NCTE is no doubt provided for in the Act, 2009. The underlying objective under Act is to ensure free and compulsory education to all children of the age of 6 to 14 years. This is evident from the preamble of the Act, which reads:-

“An Act to provide for free and compulsory education to all children of the age of six to fourteen years.”

11. The Act is not a regulatory mechanism in the context of prescribing the qualifications for teachers. The mechanism did exist even before the Act came into force. The applicants cannot base their claims on the provisions of Act, 2009.

12. Even otherwise, there is nothing in the Act to suggest that if a teacher is appointed not in accordance with the norms stipulated by the academic agency, the same is invalid. Much would depend upon the requirement in the schools and the nature of courses, that are imparted within the State.

13. Reliance is placed upon the judgment of Hon'ble High Court of Delhi in **Annu & others v. Govt. of NCT of Delhi & others** (W.P. (C) No.11328/2017) decided on 11.01.2018. That was a case in which the candidates were required to clear CTET examination. The contention advanced therein was that without amending the RRs, the said qualification was stipulated. The Hon'ble High Court took the view that if the qualification is

stipulated by the NCTE, it can be taken into account by the concerned Government and it is not necessary that the RRs should have been amended. It is different from saying that any norms stipulated by the NCTE would automatically become enforceable.

14. We do not find any merit in these O.As. They are accordingly dismissed. There shall be no order as to costs.

All the M.As. shall stand disposed of.

Order **dasti**.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

October 10, 2019
/sunil/