

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
O.A. No.2821/2018**

**Reserved On: 27.07.2018  
Pronounced On:31.07.2018**

**HON'BLE MS. NITA CHOWDHURY, MEMBER (A)  
HON'BLE MR. S.N. TERDAL, MEMBER (J)**

Jaishree (Aged about 24 years)  
D/o Sh. Ujjwal Singh,  
R/o H.No. 58, Village Bindapur,  
Uttam Nagar,  
New Delhi-59

- Applicant

(By Advocate: Shri R.K. Shukla)

Versus

1. Govt. of NCT of Delhi  
Through its Chief Secretary,  
A-Wing, 5<sup>th</sup> Floor, Delhi Secretariat,  
I.P. Estate, New Delhi.
2. Union of India  
Through its Secretary,  
Ministry of Human Resource Development,  
Shastri Bhawan, New Delhi.
3. Delhi Subordinate Services Selection Board  
(DSSSB)  
Through its Chairman,  
FC-18, Karkardooma Institutional Area,  
Delhi-92.
4. The Director of Education,  
Directorate of Education,  
Govt. of NCT of Delhi  
Old Secretariat Building, Civil Lines,  
Delhi-110054
5. Central Board of Secondary Education,  
Through its Chairperson,  
'Shiksha Kendra', 2, Community Centre,  
Preet Vihar,  
New Delhi-110092.

.....Respondents

**ORDER**

**By Ms. Nita Chowdhury, Member (A)**

This Original Application (OA) has been filed by the applicant seeking the following reliefs:-

- a) Quash and set aside the impugned advertisement (Annexure A-1) which specifies clearance of CTET Exam which is not conducted since 2016 observing that the applicant is entitled for consideration for selection and appointment to the post of Primary Teacher, Post Code 1/18 for MCD directing the Respondent No.3 to accept the form of the applicant for registration for admit cards issuance either way i.e. hard copy or Online.
- b) Issue Appropriate Order/Direction thereby directing the Govt. of NCT of Delhi (Respondent No.1) to make a proposal to Central Government, Respondent No.2 herein thereby seeking relaxation in the CTET qualification for the post of Primary Teacher in favour of applicant and further issue appropriate order/direction thereby directing the Respondent No.2 to consider and grant relaxation in CTET qualification for the above said post.
- c) Direct the respondents to not to insist on CTET qualifications in respect of applicant for purpose of consideration of selection and appointment to the said post and
- d) Direct the respondents to accept the candidatures of the applicant for the said post allowing them to qualify the CTET whenever conducted by the Government/CBSE.
- e) Further consider and appoint the applicant in accordance with their merit position.
- f) Accord all consequential benefits.
- g) Award costs of the proceedings and
- h) Pass any other order/direction which this Hon'ble Tribunal deem fit and proper in favour of the applicants and against the respondents in the facts and circumstances of the case".

2. The facts, in brief, are that in this OA applicant is seeking direction to the respondent No.5-Central Board of

Secondary Education (CBSE) that they are not conducting the Central Teacher Eligibility Test (CTET) in the later part of 2016, entire year of 2017 and half of 2018 which is one of the essential qualification for various teaching posts notified vide advertisement No.1/18. Her further dispute is to the impugned action on the part of the respondents in not relaxing the CTET qualification for appointment on the teaching posts as notified vide advertisement No.1/18 dated 20.12.2017 by the Director of Education, GNCTD for the post of applicant. She is aspirant to the post of Primary Teacher, Post Code 1/18, but is not able to apply online as she is not having CTET.

3. The applicant further submits that she is aggrieved by the inaction on the part of the respondent No.1 to take up the matter with the Central Government for grant of relaxation in CTET qualification in terms of Section 23 (2) of the Rights of Children Free and Compulsory Education Act, 2009 to the applicants for the post of Primary Teacher, post code 1/18, as advertised vide advertisement No.01/18. Since there has been no mechanism in place to conduct the CTET after September, 2016, the respondents ought to have considered and granted relaxation to the applicant to have qualified CTET on the closing date of applications viz. 30.07.2018 and the applicant is ready and willing to qualify in the next CTET, whenever the same is conducted.

4. The applicant has relied on the judgment of the Hon'ble Delhi High Court in **CWP No.189/2016 - Neelam Kataria Vs. GNCT of Delhi and Others** decided on 11.01.2016 wherein the High Court has upheld the orders of this Tribunal granting relaxation to such candidates who could not even qualify CTET in the first attempt and in the meanwhile got selected to a teacher's post. The applicant has further submitted that similarly placed persons who approached the Tribunal are being given relaxation of CTET but the same is being denied to them.

5. The applicant next pleaded that CTET is being conducted twice every year, i.e., once in February and second in September but her plea is that after September, 2016 no CTET has been conducted and as such she has been deprived of her right to appear in the CTET examination and acquire the said qualification. Hence, she has prayed that she be given two chances to appear in the CTET after she had submitted her application form for the posts in terms of advertisement No.01/18.

6. The applicant further pleaded that large number of vacancies for the post of Special Education Teacher and other teacher in the Directorate of Education have been lying vacant since 2011 (i.e. when the said posts were advertised) till date but could not be filled due to non-availability of suitable candidates. She has thus prayed that the OA be allowed and she be permitted to appear in the CTET examination.

7. Heard Shri R.K. Shukla, the learned counsel for the applicant and perused the pleadings on record.

8. The short point involved in this case is that applicant who has not qualified CTET examination is seeking direction to be given to the respondents to hold the said examination so that she can apply for the post of teacher. We may mention, that it is the prerogative of the Government/State Government when to hold a particular test but Courts cannot give any direction in this regard. No doubt, if she has applied for a particular post cost 1/18 for MCD and has not CTET qualified, how can her form be accepted. By way of this OA, the applicant is seeking automatic exemption to hold CTET examination which is not within our domain and it is for the Government to see when to conduct a particular exam.

9. The details of the qualifications of the applicant is as under:-

Name of Applicant	Qualifications
Jaishree	09.06.2011 (10+2) 26.04.2016 (Bachelor of Education)

10. Hence the averments, with regard to the fact that the requisite qualifications are not found to be correct. From the above, it is clear that the applicant only acquired the basic qualification for applying for CTET only in the year

2016. Hence, the respondents cannot be called into question for delaying of holding of CTET examination.

11. The applicant has also submitted since CTET was not regularly held after 2010 hence directions be issued to hold the same test. In this regard, the Hon'ble Supreme Court in the case of **State of Rajasthan v. Ram Saran, AIR 1964 SC 1361**, while interpreting the provisions of Section 2 of the Act, 1861, held that **State Government alone is empowered to frame Rules regulating the condition of service of members of the police force**. Thus the decision rendered in **Ram Saran's case** (supra) is fully applicable to the applicant's case and she cannot be granted any interim relief. Further, the decision relied upon by the applicant who is not similarly situated as in the case of **Neelam Kataria** (supra), has no application as they were already Primary Teachers and only on that basis relaxation was given for qualifying the CTET examination.

12. In the circumstances giving a blanket permission to everybody who wants to participate in a selection without considering the individual facts of each case, would not be in accordance with law. Thus seen from any angle, the interim relief, as prayed for by the applicant, in this OA is not allowed.

13. Issue notice to the respondents to file their reply within 2 weeks and thereafter 2 weeks to the applicant to file rejoinder. List the matter before the Principal Registrar's court for completion of pleadings on 31.08.2018.

**(S.N. TERDAL)**  
**MEMBER (J)**

**(NITA CHOWDHURY)**  
**MEMBER (A)**

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