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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.2800/2003

M.A. NO. 2469/2003

New Delhi, this the 2nd day of May, 2004

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI S.A.SINGH, MEMBER (A)

Ms. Jainish Kumari
w/o Shri Vijay Kumar
r/o Village & P.O. Nahara
District Sonepat. Applicant

(By Advocate: Mrs. Rani Chhabra)

Versus

1. Government of N.C.T. of Delhi
through Chief Secretary
5, Shamnath Marg, Delhi - 110 054.
2. The Director
Directorate of Education
Old Secretariat
Delhi.
3. The Deputy Director
Directorate of Education
North-West-A District
Hakikat Nagar, Delhi. Respondents

(By Advocate: Sh. Mohit Madan proxy for Mrs. Avnish Ahlawat)

O R D E R

Justice V.S. Aggarwal:-

Applicant (Ms. Jainish Kumari) had applied for the post of Post Graduate Teacher (Sanskrit) on basis of an advertisement/notification of 12.6.1998. In the Admission Form, it was clearly mentioned that individual must specify himself with respect to the educational qualifications, etc. and in case they are not found qualified, the candidature can be cancelled. The applicant was selected by Delhi Subordinate Services Selection Board (in short 'DSSSB') after she appeared in the requisite test. Her dossiers were forwarded to the Directorate of Education for appointment to the post. The applicant was not

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[2]

appointed because it was asserted that she did not possess the requisite qualifications prescribed in the Recruitment Rules.

2. Applicant possessed a Diploma in Language Teaching. The same is stated to be for elementary level and not for Secondary/Senior Secondary level. She was seeking appointment to the post of PGT (Sanskrit) where the classes XIth and XIIth are to be taught. The applicant, in this regard could not be appointed.

3. By virtue of the present application, the applicant seeks quashing of the order of 13.3.2002 and further a direction to appoint her to the post of PGT with consequential benefits.

4. Some of the other facts can conveniently be delineated to precipitate the controversy. The Recruitment Rules for the post of PGT have been notified with respect to the educational and other qualifications required. The same have been reproduced as under:

"Essential"

1. Master Degree or its equivalent oriental degree in the case of PGT (Sanskrit/Hindi) in the subject concerned from recognised University.
2. Degree/Diploma in Training/ Education.

Amended vide notification No.7.2(1)79/S.II dated 27.4.81

"Qualification mention at S. No.2 above is relaxable in case of candidates.

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I) Having obtained Ph. D degree in the subject concerned from a rec. University/Institution.

II) Having obtained First Division in Hr. Sec. Examination, Graduation Degree and Post Graduate with the Mandatory condition that the candidate will acquire B.Ed./B.T. qualification within a period of three years from the date of his joining the service.

Desirable:

Three years experience of teaching in a College/Hr. Sec. School/High School in the concerned subject."

5. Applicant's contention is that she had passed her Matriculation Examination from the Board of School Education, Haryana. After completing 12th standard, she had obtained a Degree of Shastri from Sampurnanand Sanskrit University, Varanasi. She qualified in the Diploma Training in the subject of Sanskrit from the District Education and Training Institution under the Directorate of Education, Haryana, Chandigarh. She had obtained the said Diploma after graduation. After obtaining the Diploma in Training, she qualified her MA examination in Sanskrit from Gurukul Kangri University, Haridwar.

6. Applicant's version was that she appeared before Respondent No.3. She was informed that as per the provisions of National Council for Teachers Education Act, 1993, a person possessing Diploma in Training was equivalent to Elementary Teacher Education and could only teach primary classes. She was given one letter by the Office of the Director, Secondary Education, Haryana wherein it has been stated that the person holding the said Diploma in

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Training can teach upto 10th Standard. The applicant had written to the National Council for Teachers Education which is a statutory body constituted under National Council for Teachers Education Act, 1993. A reply was received by the applicant that the National Council for Teachers Education Act lays down the norms and standards for various teaching education programmes. They are applicable with effect from 1996-97 and Degrees and Diplomas obtained before that, are not effected thereto. The applicant had obtained the said Diploma before the date referred to above.

7. Earlier the applicant had filed an OA which was dismissed by this Tribunal. It was followed by a Writ Petition filed by her in the Delhi High Court, i.e., Civil Writ No.3590/2001. The Delhi High Court held that National Council for Teachers Education Regulations had come into being in the year 2000 and would not attract in the case of the applicant who was selected in the year 1999. The application was disposed of with the following directions:

"This petition is accordingly disposed of by providing as under:-

"Petitioner may submit her Diploma certificate alongwith all other relevant documents, if any, supporting her case, and a representation to respondent No.2 (Director of Education) within two weeks. Respondent No.2 is directed to forward the case alongwith his version, if any, to Chairman, UGC within one week thereafter for determination of equivalence of petitioner's Diploma and whether it satisfies the eligibility requirement. The Chairman shall have it examined and forward the Commission opinion to respondent No.2 within two weeks from receipt of the matter. If such opinion

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favours petitioner, respondent shall consider her for appointment to post of PGT and pass requisite orders of appointment within one month from receipt of UGC report. Otherwise not."

8. After considering the necessary reports to which we shall refer hereinafter, the impugned order was passed holding that applicant did not possess the required qualifications.

9. The application is being contested. The sole controversy herein before us was as to if the applicant possesses the Diploma in Language Training required as per the recruitment rules and in this process, fulfilled the educational qualifications or not.

10. While giving the resume of the facts, we have already mentioned that Delhi High Court has held interse between the parties in the Civil Writ Peition mentioned above that National Council for Teachers Education Regulations would not be attracted in the case of the applicant. Since it is a decision which has become final interse between the parties, the question of reagitating the same would not arise.

11. The Delhi High Court had directed that applicant is to submit her Diploma Certificate and a representation to Director of Education who would consult the Chairman, University Grants Commission for determination of equivalence. The applicant had submitted the same. The University Grants Commission on 20.2.2002, intimated that the Diplomas do not come

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under the purview of the University Grants Commission and that equivalence is being dealt with Association of Indian Universities.

12. The respondents accordingly approached the Association of Indian Universities. The Association of Indian Universities, on 19.3.2002, had replied to this controversy:

"Ref: Your letter No.F-DE-23
(98)/School/ 98-99/47897 Dated 11
March, 2002.

Dear Sir,

It has been observed from the copies of the certificates produced by the candidate Ms. Jainish Kumari that she has passed Shastri Examination from Sampurnand Sanskrit Vishwavidyalaya, Varanasi, which is a recognized Bachelor Degree. She has further obtained Master of Arts Degree in Sanskrit Literature from Gurukula Kangri Vishwavidyalaya, Hardwar, a Statutory University in the country. Thereafter, she has passed the Language Teachers Course (Sanskrit) of the Department of Education, Government of Haryana.

As per the Department of Education, Government of Haryana letter dated 25 July, 1979 (copy enclosed), the Language Teacher's Course examination of the Department of Education, Government of Haryana, is accepted for appointment for the post of Language Teacher in Sanskrit.

In a similar case, the Director, Secondary Education, Government of Haryana--vide letter dated 20 December, 2001 (copy enclosed) has clarified that the Language Teacher Course is meant for appointment as a Language Teacher. In case Sanskrit is one of the Teaching subjects at B.Ed, Language Teacher Course is treated at par with B.Ed.

Maharshi Dayanand University, Rohtak has also accepted the Language Teacher Course examination as equivalent to B.Ed with Sanskrit as a teaching subject provided the course is done after B.A. with Sanskrit as a subject.

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[7]

In the context of the foregoing facts, Language Teacher's Course (Sanskrit) may be considered comparable to B.Ed for appointment to the post of Language Teacher only."

13. It clearly shows that the expert body opined that Maharishi Dayanand University, Rothak has even accepted the Language Teacher Course Examination as equivalent to B.Ed with Sanskrit as a teaching subject, provided the course is done after B.A with Sanskrit as a subject.

14. It was stated that in case Sanskrit is one of the teaching subjects at B.Ed, Language Teacher Course is treated at par with B.Ed. Thereafter, it opined that in the context of the foregoing facts, Language Teachers Course (Sanskrit) may be considered comparable to B.Ed for appointment to the post of Language Teacher only.

15. We have already referred to the order passed by the Delhi High Court. It was found that it was difficult to assume the role of expert body for determination of equivalence of Diploma held by the applicant. It is in this backdrop that the entire matter came up for consideration before Association of Indian Universities. On 19.3.2002, the Association of Indian Universities considered the Language Teachers Course of Sanskrit comparable to B.Ed and for appointment to the post of Language Teacher only. The applicant has not assailed the said letter. If the expert body had found that applicant was not qualified to be considered as B.Ed. for discharging the duties



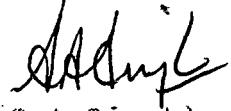
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of Post Graduate Teacher (Sanskrit), keeping in view the above said facts, it would be improper to quash the impugned order.

16. In that event, our attention was further drawn to the fact that certain other persons, names of which have been given, were appointed with similar qualifications. Indeed it cannot be taken as discrimination because if in violation of the rules, certain other persons have been appointed, their appointments may not be valid. It will not confer a corresponding right that all such persons should be appointed contrary to the rules.

17. No other argument was raised.

18. For these reasons, OA being without merit must fail and is dismissed. No costs.



(S.A. Singh)
Member (A)



(V.S. Aggarwal)
Chairman

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