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**CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI**

ORIGINAL APPLICATION No. 345 OF 2015

DATED THIS TUESDAY THE 22nd DAY OF OCTOBER, 2019

**CORAM: R. VIJAYKUMAR, MEMBER (ADMINISTRATIVE)
RAVINDER KAUR, MEMBER (JUDICIAL)**

1. Patel Piyush Sureshbhai, Date of Birth: 17.07.1991, age: 23 years, working as: Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Primary School, Patlara, Daman-396220, and residing Mora Falia, Magarwada, Moti Daman-396 220.
2. Damania Nainita Dilip Date of Birth: 18.02.1990, age: 24 years, working as: Upper Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Upper Primary School, Zari, Daman-396 220, and residing H.No. 145, Rata Falia, Thana Pardi, Moti Daman-396 220.
3. Kebeereeya Chaitaliben Jayanti, Date of Birth: 13.02.1986, age: 28 years, working as: Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Primary School, Nani Daman(E/M) Daman-396 220, and residing H.No.-13/371, Mahayavansi Falia, Kathiria, Nani Daman-396 210.
4. Patel Vaishaliben Sureshbhai, Date of Birth: 26.10.1991, age: 23 years, residing Chachaliya Faliya, Varkund, Nani Daman- 396 210.
5. Patel Upasnaben Dhansukhbhai, Date of Birth: 12.02.1992, age: 23 years, working as: Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Primary School, Nani Daman (E/M), Daman-396210, and residing H.No. 590, Sasaria Falia, Varkund, Nani Daman- 396210
6. Halpati Sunilkumar Keshavbhai, Date of Birth: 02.01.1990, age: 24 years, working as: Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Primary School, Nani Daman (E/M), Daman-396210, and residing H.No. 694, Boria Talav, Moti Daman-396 220.
7. Dhodi Heenaben Kishanbhai, Date of Birth: 01.11.1992, age: 22 years, working as: Primary School Teacher

(Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Primary School, Nani Daman (E/M), Daman-396210, and residing H.No.110, School Falia, Zari, Moti Daman-396 220.

8. Patel Heena Hasmukh, Date of Birth:21.10.1991, age:23 years, and residing H.No. 25, Nr. Power House, Chheda Falia, Patlara, Moti Daman, Daman-396 220.
9. Dhodi Chandanben Nanubhai, Date of Birth:11.12.1986, age:28 years, and residing at H.No.81, School Falia, Zari, Moti Daman-396 220.
10. Patel Vibhuti Dhansukh, Date of Birth:06.02.1987, age:27 years, working as: Upper Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Upper Primary School. Kachigam, Daman-396210, and residing H.No. 39/1, Koliwad Falia, Kachigam, Nani Daman-396210.
11. Patel Kamalpriya Dhirubhai, Date of Birth:13.7.1988, age:27 years, and residing Opp. Sai Krupa Society-1, Kunta Road, Nani Daman-396 210.
12. Krupaben A. Someshwara, Date of Birth:13.10.1987, age:27 years, working as: Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Primary School, Nani Daman (E/M), Daman-396 210, C-13 326/7, Telephone Quarters, Diu- 362 520. •
13. Patel Nikitaben Nanubhai, Date of Birth:25.06.1991, age:24 years, and residing H.No.-35/2, Sura Falia, Moti Vankad, Nani Daman-396 210.
14. Patel Hetalben Dahyabhai, Date of Birth:17.03.1989, age:26 years, and residing Boriya Talav, Moti Daman-396 220.
15. Shilpaben Jayntilal Tandel, Date of Birth:02.07.1990, age: 25 years, 203, Casa Royale, Opp. Govt. College, Dunetha, Nani Daman-396 210.
16. Patel Kajal Rameshbhai, Date of Birth:18.02.1989, age:26 years, residing Bhnd, Dolphin Bar, Kumbhar Falia, Nani Daman-396 210.
17. Rathod Reempal Ratilal, Date of Birth:29.10.1989, age:25 years, working as: Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Primary School, Kadaiya, Daman-396210, and residing Gandhi Faliya, Moti Vankad, Bhimpore, Nani Daman, Daman 396 210.

18. Patel Ankitaben Kantilal, Date of Birth:03.06.1990 age:25 years, working as: Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Primary School, Jampore Varliwad, Daman-396220, and residing H.No.692, Boria Talav, Patlara, Moti Daman- 396 220.
19. Patel Dipika Chimanbhai, Date of Birth:10.08.1989, age:25 years, and residing H.o.-32/3, Patel Falia, Bhimpore, Nani Daman-396 210.
20. Patel Amruta Kantibhai, Date of Birth : 24.01.1991, age:24 years, and residing Patel Falia, Bhimpore, Nani Daman 396 210.
21. Patel Ashmita Govindbhai, Date of Birth : 18.04.1988, age 27 years, working as Upper Primary School Teacher(Short Term Contract Basis) (Group 'B') Non Gazetted Post in Govt. Upper Primary School, Bhimpore, Daman 396 210, and residing Bhimpore, Patel Falia, Nani Daman 396-210.
22. Patel Shitalben Thakorhai, Date of Birth : 10.08.1987, age 28 years, working as Upper Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted Post in Govt. Upper Primary School, Moti Vankad, Nani Daman 396 210, and residing Khariwad, Patel Falia, Behind Govt. Primary School, Nani Daman, Daman 396 210.
23. Patel Hemanxiben Gulabhai, Date of Birth : 03.06.1988, age 27 years, working as: Primary School Teacher (Short Term Basis) (Group 'B') Non Gazetted Post in Govt. Primary School, Damanwada (E/M), Daman 396 220, and residing H.No.52, Navyug Falia, Magarwada, Moti Daman 396 220.
24. Patel Divyaben Manubhai, Date of Birth: 27.09.1988, age 27 years, working as Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted Post in Govt. Primary School, Nani Daman (E/M), Daman 396 210 and residing H.No.906/220, Bhenslore, Koliwad, Nani Daman 396 210.
25. Patel Dimpal Gulabhai, Date of Birth:29.8.1991, age:24 years, working as: Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Primary School, Dunetha, Daman-396210, and residing H.No. 41, Amran Falia, Dunetha, Nani Daman-396 210.
26. Vijyetakumari Rameshchandra Patel, Date of Birth:21.06.1990, age:25 years, working as: Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Primary School, Kachigam, Daman-396210,

and residing H.No. 33/1, Kachigam, Ajran Faliya.
Nani Daman-396 210.

27. Patel Naynaben Amratlal, Date of Birth:05.02.1987, age:28 years, working as: Upper Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Upper Primary School, Bhimpore (A/S) Daman-396210, and residing H.No.-198, Singa Faliya, At- Patlara, Moti Daman-396220.
28. Patel Bina Ranjithbai, Date of Birth: 05.05.1992, age 23 years, working as Primary School Teacher (Short Term Contract Basis), (Group 'B') Non Gazetted Post, in Govt. Primary School, Bhimpore (A/S), Daman-396210, and residing H.No. 87, Kamli Faliya, Pataliya Road, Nani Vankad, Nani Daman-396 210.
29. Kailashben Vinodbhai Patel, Date of Birth:19.06.1985, age:30 years, working as: Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Primary School, Dalwada, Nani Daman-396210, and residing Kund Falia, Bhimpore, Nani Daman-396 210.
30. Patel Sejal Chhotubhai, Date of Birth:11.07.1990, age:25 years, H.No. 1444/4, Pardi Falia, Dunetha, Nani Daman-396 210.
31. Halpati Sunita Raman, Date of Birth:29.06.1994, age:21 years, and residing H.No.-356, Boria Talav, Moti Daman-396 220.
32. Gohil Nehalkumar Dineshchandra, Date of Birth:31.05.1988, age:27 years, working as: Asstt. Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in GSHSS- Vanakbhara and residing H.No.-26, Mahyavanshi Falia, Pariyari, Moti Daman-396 220.
33. Patel Pramodkumar Gulabbhai, Date of Birth:25.11.1985, age:30 years, working as: Upper Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted Post, in Govt. Upper Primary School, Patlara, Daman-396220, and residing 130, Mor Falia, Magarwada, Moti Daman, Daman-396 220.
34. Patel Sarikaben Rameshbhai, Date of Birth:23.01.1985, age:30 years, working as: Upper Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Upper Primary School. Damanwada, Daman-396220, and residing Magarwada, Patel Falia, Moti Daman-396 220.

35. Halpati Manishkumar Ramanlal, Date of Birth:24.11.1986, age:29 years, working as: Upper Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Upper Primary School, Nani Daman (E/M), Daman-396210, and residing H.No.2/1, Devka colony, Nr. 1 Hotel Summer House, Nani Daman-396 210.
36. Swetangi Ishvarbhai Patel, Date of Birth:18.08.1989, age:26 years, working as: Upper Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Upper Primary School, Patlara, Daman-396220, and residing H.No. 45/2, Badhaliwadi, Moti Daman- 396 220.
37. Shitalben Shantilal Mehta, Date of Birth: 10.11.1986 age:28 years, working as: Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Primary School, Marwad, Daman-396210, and residing H.No-61/D, Marwad, Patel Faliya, Nani Daman-396 210.
38. Jagrutiben Mayurbhai Halpati, Date of Birth:07.07.1987, age:28 years, working as: Upper Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Upper Primary School, Varkund, Daman-396210, and residing 36, Veri Falia, Naila Pardi, Moti Daman-396 220.
39. Contractor Meghavinee Bharatbhai, Date of Birth:26.08.1987, age:28 years, working as: Asstt. Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in GHS Fudam, Diu-362540, and residing 205, Dhanson Appt. Cross lane-1, Dilip Nagar Society, Nani Daman-396 210.
40. Mahyavanshi Sunitaben Hansraj, Date of Birth:30.05.1986, age:29 years, working as: Upper Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Upper Primary School, Varkund, Daman-396210, and residing H.No. 314/2, School Falia, At/Po-Varkund, Nani Daman-396 210.
41. Mahyavanshi Priyanka Hansraj, Date of Birth:01.12.1988, age:27 years, working as: Upper Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Upper Primary School, Nani Daman (E/M), Daman-396 210, and residing H.No.123, Mahyavanshi Falia, Kadaiya, Nani Daman 396 210.
42. Patel Ashwina Amrulal, Date of Birth:02.11.1990, age:24 years, working as: Primary School Teacher (Short Term Contract Basis)

(Group 'B') Non Gazetted post, in Govt. Primary School, Damanwada, Daman-396220, and residing H.No. 446/3, Rav Talav, Ambawadi, Moti Daman-396 220.

43. Bagada Jigna Pravin, Date of Birth:28.07.1992, age:22 years, working as: Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Primary School, Bharwad Falia,, Daman-396220, and residing 204/2nd Floor, Neel Kamal 'C', Assucena Road, Moti Daman-396 220.

44. Patel Chakrawati Chimanlal, Date of Birth:20.02.1988, age:27 years, working as: Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Primary School, Nani Daman (E/M), Daman-396210 H.NO. 542, Kankra Khadi, Patlara, Moti Daman-396 220.

45. Sheikh Taslima Hussain, Date of Birth:10.08.1983, age:31 years, working as: Upper Primary School Teacher in Olvan Primary School, Ta-Una, Dist- Girsonnath and residing H.No.5-58(4), Nr. Girls High School, Bhavsarwada, Diu 362 520.

46. Hemalkumar Ratilal Solamki, Date of Birth:04.02.1985, age:30 years, working as: Gr.I Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, In GHSS- Diu- 362571 and residing 781/2, Saranagar, Nr. Prathna Mandir, Ghoghla Diu-362 540.

47. Bamania Kamlesh Chhagan, Date of Birth:02.07.1983, age:32 years, working as: Asstt. Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in GSHSS Vanakbara, Diu-362570 and residing H.No.-1301, Main Road, Saudwadi, Diu.

48. Bamania Mintesh Valji, Date of Birth:13.04.1992, age:23 years, working as: Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Primary School, Dagachi, Diu- 362571 and residing H.No.- 280, Ambu, Dagachi, Bhucharwada, Diu-362540.

49. Solanki Rashmita Ratilal, Date of Birth:22.03.1986, age:29 years, working as: Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Primary School No.1, Vanakbara, Diu-362540 1270, LBS Road, Ghoghla, Diu 362 540.

50. Chundariya Priyanka Hasmukhlal, Date of Birth:13.4.1992, age:23 years, and residing H.No.-1687, Mangal No Choro, Nehru Street, Ghoghla-362 540.

51. Bamania Lilavati Mohan, Date of Birth:29.08.1990, age:25 years,

working as: Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Primary School, Nagoa, Diu 362570 and residing H.No. 3362, Near Bus stop, Nagoa, Diu- 362 570.

52. Chauhan Purviben Shantilal, Date of Birth:28.04.1988, age:27 years, working as: Asstt. Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in GHS-Diu- 362571 and residing H.No.- 5/280, Firangiwada, Nr. PWD Office, Diu- 362 520.
53. Solanki Urvashiben Ratilal, Date of Birth:24.12.1985, age:30 years, working as: Gr.I Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in GHS Diu and residing H.No. 1931, Choro Khireshvar, Ghoghla, Diu-362 540.
54. Dhara Haresh Solanki, Date of Birth:20.12.1987 age:27 years, Upper Primary School Teacher in Vasoj Primary School, Ta-Una, Dist- Girsomnath and residing H.No. C-19/5-80, "Krupa Kanshi", Bhavsarwada, Diu-362 520.
55. Makwana Binalben Pravinbhai, Date of Birth:01.07.1989 age:26 years, working as: Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Primary School No.1, Vanakbara Diu-362570 and residing Ghodiya Street, Gaytri Darshan, Nr. Ashiyana Hotel, Diu-362 520.
56. Vyas Kinjal Kaushikkumar, Date of Birth:14.02.1994 age:21 years, and residing 2-176, Devi Krupa, Randal Street, Diu- 362 520.
57. Baraiya Babu Deva, Date of Birth:07.03.1978, age:37 years, working as Upper Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt.Upper Primary School, Vanakbara (Boys) Diu-362570 and residing H.No.- 974, Ruxmani Building, Vanakbara, Diu-362 570.
58. Sangita Mahendra Jethwa, Date of Birth:25.09.1986, age:29 years, working as: Upper Primary School Teacher in Kesariya Primary School, Ta-Una, Dist- Girsomnath and residing Police Quarters, Nr. Govt. Hospital, Diu.
59. Bamania Jyotikaben Premchandbhai, Date of Birth: 27.03.1984 age:31 years, and residing H.No. 1474/2, Nr. Laxminarayan Temple, Bhoiwada, Ghoghla 362 540.
60. Mansuri Rizwana Adambashir, Date of Birth:19.12.1989,

age:26 years, working as: Upper Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Upper Primary School, Dagachi, Diu-362570 and residing H.No. 2-187-1, Koliwada, Sidi Colony, Diu- 362 520.

61. Solanki Daxa Manjibhai, Date of Birth:01.12.1979, age:36 years, working as: Upper Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt.Upper Primary School, Bucharwada Diu-362520 and residing H.No.-1444, Harijanvas, Dangarwadi, Diu- 362 520.
62. Solanki Jayeshkumar Devji, Date of Birth:29.05.1986, age:29 years, working as: Lecturer in Govt. Polytechnic Diu and residing H.No. 1064, Main Road, Patelwadi, Diu-362 571.
63. Charania Suresh Ukarda, Date of Birth:24.01.1983, age:33 years, working as: Asstt. Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in GSHSS Vanakbara, Diu and residing H.No.- 2551, Khajuriya Sheri, Vanakbara, Diu.
64. Solanki Rahulkumar jivabhai, Date of Birth 22.01.1987, age 28 years, working as: Upper Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt Upper Primary School, Vanakbara (Boys) Diu-362570 and residing H.No.-887, Main Road, Saudwadi Vanakbara, Diu-362 570.
65. Kamalia Darshana Natvarlal, Date of Birth:20.06.1990, age:25 years, working as Asstt. Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in GSHSS Bucharwada, Diu and residing H.No.-225-4, Gundi Street, Nr. Balbhavan Board, Luharwada Road, Diu-362 520.
66. Jadav Manishkumar Hirachand, Date of Birth:07.02.1985, age:30 years, working as: Daily wages Teacher in GUPS Bucharwada, Diu-362571 and residing H.No.-8/80, Main Road, Gandhipara, Diu.
67. Patel Dhrutika Bhaidas, Date of Birth:22.05.1989, age:26 years, working as: Upper Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Upper Primary School, Ghoghla (Boys) Diu and residing H.No. 560/2. Bhavik Bhavan, Bhavsarwada- Diu.
68. Bamania Hasmita Kanji, Date of Birth:09.05.1992, age:23 years, and residing H.No. 309, Vadi street, Vanakbara, Diu.
69. Sotanki Ysmika Jayantilal Date of Birth 1201.1991 age 24 years,

working as Primary School Teacher (Short Term Contract Basis) (Group B) Non Gazetted post in Govt Primary School No.1, Vanakbara Diu-362 570 and residing BUNG-2457, Khajuriya Sheri, Vanakbara, Diu-362 570.

70. Baraiya bharmista Tulsidas, Date of Birth 11.08.1992, age 23 years, working as: Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt Primary School No.4, Vadlimata, Vanakbara, Diu-362570 and residing H.No 1759, Agariya Street, Azad Chowk. Vanakbara-Diu-362 570.
71. Bamania Rupande Babubhal, Date of Birth :08.10.1991, age:24 years, working as Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt Primary School No.1 Vanakbara, Diu and residing H No- 1408, Chadikawadi, Nagoa Road, Nr. Primary School, Vanakbara, Diu.
72. Charaniya layshree Vira, Date of Birth:14.10.1985 age 30 years, and H.No. 945, Timba Sheri, Vanakbara, Diu 362 570.
73. Parmar Namrata Ravjibhai, Date of Birth:19.12.1987, age:28 years, working as: Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt.Primary School Zolawadi, Diu and residing H.No.C3, Telephone Staff Quarters, Dr. Kelkar Road, Diu-362 520.
74. Bharthi Rina Rameshbhai, Date of Birth:09.02.1990, age:25 years, working as: Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt.Primary School, Zolawadi, Diu- 362571 and residing H.No.-1830, Khetarpal Nr. Temple, Zolawadi- Bhucharwada, Diu-362 571.
75. Someshwara Kailashben Amrutbhai, Date of Birth:15.08.1985, age:30 years, working as: Upper Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Upper Primary School, Ghoghla (Girls) Diu-362520 and residing C-13 326/7, Telephone Quarters, Diu- 362 520.
76. Jadav Nisha Hirachand, Date of Birth: 10.1.1983, age:32 years, working as: Upper Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt. Upper Primary School Vanakbara, Diu H.No. 631-A, Gandhipara, Diu.
77. Bamania Kamlaben Mohan, Date of Birth:18.12.1987, age:28 years, working as: Asstt. Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in GSHSS Vanakbara (Boys), Diu

and residing H.No. 3258/1, Kala Sheri, Vanakbara, Diu-362 570.

78. Sikotaria Bhavyeshkumar Vira, Date of Birth:31.3.1989, age:26 years, working as: Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt.Primary School No.3, Gomtimata, Vanakbara, Diu-362 570. and residing H.No.-1420, Sikotar Sheri, Vanakbara, Diu- 362 570.
79. Bariya Krutik Manji, Date of Birth:27.10.1991, age:23 years, and residing H.No. 1909, Kala Sheri, 'Astha Nivas', Vanakbara-Diu-362 570.
80. Khetani Anilkumar Jafarbhai, Date of Birth:22.1.1990 age:25 years, and residing H.No.- 30, Panjarapor, Ghoghla, Diu.
81. Bamania Jigneshkumar Bhmji, Date of Birth:08.3.1986, age:29 years, working as: Gr.I Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in GSHSS Diu and residing 1353, Rushi Krupa, Babufaria Street, Ghoghla, Diu-362 540.
82. Kirtankumar Virchand Baria, Date of Birth:25.04.1985 age:30 years, working as: Gr.I Teacher (Group 'B') Non Gazetted post, in GSHSS Diu and residing H.No.- 106 A/b 'Jalaram Krupa', Jalaram Street. Hospital Road, Diu-362 520.
83. Patel Bhupenrakumar Lalji, Date of Birth:27.2.1982, age:33 years, working as: Asstt Teacher (Group 'B') Norn Gazetted post, in GSHSS Ghoghla (Boys), Diu and residing 'Shree Khodiyar Bhavan', H.No.-1120, Choro Patel, Ghoghla, Diu-362 540.
84. Makwana Rakeshkumar Jasabhai, Date of Birth:09.06.1987, age:28 and residing H.No.-892/2, Gandhipara, Diu.
85. Solanki Vinaykumar Chhagan, Date of Birth:05.01.1985, age:30 years, Asstt. Teacher (Short 'Term Contract Basis) (Group 'B') Non Gazetted post, in GSHSS Vanakbara (Boys), Diu and residing H.No.- 1902/2, Nagoa Main Road, Chadakawadi, Vanakbara, Diu.
86. Bamania Mukesh Devji, Date of Birth:25.09.1993, age:22 years, and residing H.No.420, Par, Dagachi, Bhucharwada, Diu- 362 571.
87. Patel Swati Pinkesh, Date of Birth:07.07.1985, age:30 years, working as : Upper Primary School Teacher (Short Term Contract Basis) (Group 'B') Non Gazetted post, in Govt.Primary School Dunethai, Daman and residing 14/C-1, Haro Om Niwas, Kamli Falia, Ringanwada, Nani daman 396 210.

88. Patel Kinjal Paragbhai, Date of Birth:22.04.1988, age:27 years, working as : Upper Primary School Teacher, Ajitnagar, Prathmikshala, Chala, Vapi and residing at 404-B Rameshwari apartment, Near Mashal Chowk, Nani daman 396 210.

89. Patel Priyankakumari Gulabbhai, Date of Birth:02.04.1988, age:27 years, working as : Upper Primary School Teacher, in Govt. Primary School Kumarshala, Vapi 396191, and residing at Dhaklini Wadi, Nani Daman 396 210. **- Applicants**
(By Advocate Shri S.V.Marne)

VERSUS

1. Union of India, Through the Secretary, Ministry of Home Affairs, North Block, New Delhi - 110 001.
2. The Administrator, Union Territory of Daman & Diu Secretariat, Moti Daman -396 220.
3. Director of Education Administration of Daman & Diu Diu 362 520.
4. Director of Education Union Territory, Daman & Diu, Daman 396 220.

5. Secretary of Education, Secretariat, Daman. **..Respondents**
(By Advocates Shri V.S.Masurkar and Shri R.G.Walia)

O R D E R
Per : R.Vijaykumar, Member (A)

This application has been filed on 23.06.2015 under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

“8(a) that this Hon'ble Tribunal be pleased to call for the records of the case being OA No.168/2015 as also original records of the Respondents-Union of India and after perusing the same be pleased to quash and set aside the judgment dated 8/5/2015 passed in OA No.168 of 2015, or alternatively hold that the said judgment would not in any way affect the fortunes of the Applicants, meaning thereby the provisional list would remain unchanged and further direct the Respondents-Union of India to issue appointment orders based on the same to the Applicants in the present OA;

8(b) that this Hon'ble Tribunal be pleased to direct the Respondents to grant all consequential benefits to the Applicants from the date of their original appointment in respect of those working on contract from the year 2013 based on their having already secured the required eligibility criteria of having passed the TET exam on merits and further grant of consequential benefits thereto and in respect of those yet to be appointed from the dates of their appointments;

8(b) Exemplary cost of this application be provided for.

8(c) Any other and further orders as this Hon'ble Tribunal may deem fit in the nature and circumstances of the case be granted."

2. The applicants had responded to an advertisement issued by the respondents on 08.10.2014 for filing up the posts of primary and upper primary teacher in the Union Territory numbering 170 that was subsequently revised in the corrigendum issued in December 2014 and provisional list of unsuccessful candidates was published on 04.03.2015. Some of the present applicants had earlier been appointed on short term contract basis subsequent to the advertisement for the purpose on 23.07.2013 while some of them had directly applied against the advertisement of 18.10.2014 and have participated in the selection procedure adopted by the respondents thereafter. The applicants have impugned the orders passed by this Tribunal in OA No.168/2015 dated 08.05.2015 which had heard

certain applicants previously appointed on short term contract or daily wage basis in advertisements of 2011 and 2013 and appeared against the advertisement for regular vacancies issued on 08.10.2014. In that OA, the applicants had questioned the selection procedure adopted by the respondents of adopting the marks obtained in the Teacher Eligibility Test (TET) which is a prescribed educational qualification for these posts as a substitute for the written test that they were required to conduct for this examination. This was required by the Respondents' office memorandum No.1-1-87-CS/PF/2823 dated 16.12.2013 (Annexure A-9) which altered the previous allocation within 100 marks for this category of Group 'B' (non-gazetted) teacher from 90% marks set aside for written examination and 10% for academic qualification to the new, the altered requirement of 60% for written test and 10% for educationally qualification, 10% for interview and 20% as weightage for local candidates claiming domicile in the Union Territory of Daman and Diu. A further modification was issued in OM No.1-1-87-CS/PF/2173 dated 14.11.2014 (Annexure A-10) deleting the marks

for interview and adding this back to the written test marks. In that OA, which entered into the question whether the provisional selection list that contains names of the present applicant in this OA was approved in a valid and legally sustainable process, the orders noted that the respondents had not provided any valid reasons to dispense with the prescribed selection procedure for substituting the written test with the score of TET and did not accept the argument tendered that since the number of the candidates were high, the respondents felt that conducting written examination would take a long time and a short-cut was adopted. The Tribunal noticed that the number of the applicants was only 1336, which was not a very large number for conduct of written examination as prescribed in OM dated 16.12.2013 issued by the respondents themselves. On this basis, the selection process was held to be illegal and the provisional list dated 04.03.2015 which included the present applicants was quashed and set aside, directing the respondents to hold the written test within three months thereafter.

3. The present applicants claims that they are,

therefore affected since these orders, in regard to that provisional list which includes their names, had been quashed. They argue that since their names were contained in the provisional list, they should have been heard prior to passing orders adversely affecting them and applicants in that OA had not impleaded them and since the applicants in that OA had not impleaded them, no such orders could have been passed adversely affecting their interest.

4. The applicants have also argued that the marks obtained by the candidates in the TET examination is adopted by different States in India and the TET examination and qualification is a requirement under Act of Parliament which override any subordinate legislation in the Union Territory under Article 309 of the Constitution. They have asserted that the applicants have obtained higher marks in the TET examinations and were rightly considered and selected for placement in the provisional list.

5. The respondents have filed their reply. The private respondents who were applicants in OA No.168/2015 have filed an intervention petition

questioning the filing of both Review Petition and this OA by the applicants and have argued that the applicants were very much aware of the fact of the proceedings in OA No.168/2015 and they could have intervened if they felt that they were affected parties but chose not to do so. Under the Recruitment Rules, educational qualification specified TET as a requirement but adopting the marks in TET for the purpose of entering public employment was only an attempt to avoid competition which would have been better served by a written examination. The applicants filed a rejoinder and thereafter, have also filed MA. No.780/2015 for amending their relief clause 8(a) (page 278) and which has been incorporated at the outset in these orders by virtue of MA being allowed by this Tribunal, which are as under:

“8(a). That this Hon'ble Tribunal be pleased to call for the records of the case from the office of the Respondents and after perusing the same be pleased to hold and direct that the provisional select list dated 4/3/2015 shall continue to hold the field and be acted upon and further that the action to be taken by the Respondents – Union of India in consequence of the judgment dated 8th May, 2015 in OA No.168 of 2015 shall not in any way prejudice the Applicants' rights for securing appointments in consonance with the aforementioned provisional select list dated 4/3/2015.”

6. During arguments, the learned counsel for the applicant referred to the basis for conduct of TET

which lay in Section 2 of the Right of Children to Free and Compulsory Act, 2009 enacted by Parliament and in accordance with Section 23 of this Act, the National Council for Teachers Education (NCTE), the academic authority of the Central Government issued a notification dated 23.08.2010 prescribing minimum qualification for teachers for classes I to V and for classes VI to VIII as under and includes pass in the Teachers Eligibility Test (TET) to be conducted by the approved Government :

“Minimum Qualifications.-

Classes I-V

Senior Secondary (or its equivalent) with at least 50% marks and 2 – year Diploma in Elementary Education (by whatever name known)

OR

Senior Secondary (or its equivalent) with at least 45% marks and 2 – year 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- year Bachelor of Elementary Education (B.El Ed)

OR

Senior Secondary (or its equivalent) with at least 50% marks and 2 – year Diploma in Education (Special Education).

AND

Pass in the Teacher Eligibility Test (TET), to be conducted by the appropriate Government in accordance with the Guidelines framed by the NCTE for the purpose.

Classes VI-VIII

B.A/B.Sc and 2-year Diploma in Elementary Education (by whatever name known)

OR

B.A/B.Sc with at least 50% marks and 1-year Bachelor in Education (B.Ed)

OR

B.A/B.Sc with at least 45% marks and 1-year Bachelor in Education (B.Ed), in accordance with the NCTE (Recognition Norms and Procedure) Regulations issued from time to time in this regard.

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4-year Bachelor in Elementary Education (B.Ed. Ed).

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4-year BA/B.Sc Ed or B.A Ed/BSc Ed.

OR

B.A/B.Sc with at least 50% marks and 1-year B.Ed (Special Education).

AND

Pass in the Teacher Eligibility Test (TET), to be conducted by the appropriate Government in accordance with the Guidelines framed by the NCTE for the purpose.”

7. The learned counsel for the applicant refers to the said guidelines issued by the NCTE dated 11.02.2011 under the Act and in particular refers to Section 9 of qualifying marks which reads as under:-

“9. A person who scores 60% or more in the TET exam will be considered as TET pass. School managements (Government, local bodies, government aided and unaided)

(a) may consider giving concessions to persons belonging to SC/ST, OBC, differently abled persons etc., in accordance with their extant reservation policy;

(b) should give weightage to the TET scores in the recruitment process; however, qualifying the TET would not confer a right on any person for recruitment/employment as it is only one of the eligibility criteria for appointment.”

8. The learned counsel for the applicant refers

to the Office Memorandum dated 16.12.2013 supra read with the amendment dated 14.11.2014 supra which requires a written test and allots marks for educational and other qualifications and argues that it is faulty since it does not specify any weightage for the TET marks and in fact, contains instructions for preparation of the written test question paper as below:

“8) Written Test Question Paper: The question paper for written test shall have multiple choice questions of $\frac{1}{2}$ mark each. Thus, there will be twice the number of questions as to the marks allotted for written test in para 2 above. The question paper will be prepared in English as well as Hindi or Gujarati language.”

9. He also urges that neither the Recruitment Rules nor the advertisement issued by the respondents made any mention of the conduct of the written test and that in this case the above OMs, the advertisement for recruitment and the provisional select list was issued by the Administrator of the Union Territory who had followed a uniform policy for not holding written test and, therefore, it could not be held to be illegal as ordered in OA No.168/2015.

10. The learned counsel for the applicant argues that the requirement for TET is a mandate to States and Union Territories and the OM issued by the

respondents are clearly against the NCTE guidelines. With regard to the quashing of the provisional list, the learned counsel argues that adversely affected parties whose names appears in the provisional list which included the applicants, were not impleaded and, therefore, those proceedings suffered from non-joinder of the relevant parties. He also argues that the OA itself was not signed by the applicants and therefore, a fraud has been played on the Tribunal for which he refers to Annexure A-15 filed in the OA and seeks to point out discrepancies between the signatures of the applicants in the verification contained therein.

11. On the argument that TET marks should have been adopted for the purpose of selection, in addition to the absence of mention of the written test in the advertisement or in the Recruitment Rules, he submits that the TET is conducted by a professional body and TET marks have been adopted by different States such as Gujarat, West Bengal, Tamil Nadu and Maharashtra where no written test is conducted and TET marks are adopted for selection purposes.

12. The official respondents have argued that the OMs issued by the Administrator have not been challenged in the prayers. They admit that the Administrator who acts as the Central Government of the Union Territory cannot override the Central Act of the Parliament. It is for this reason that acquisition of TET is considered as important and has been included as the minimum essential qualification. The OM itself allowed for weightage of educational qualification along with other educational requirement at 10% of the total marks. This will have to read with the minimum qualification prescribed in the Recruitment Rules framed under Article 309 of the Constitution and issued on 17.08.2011 (Annexure A-18) and which specified the need for passing TET.

13. The learned counsel for the respondents argues that TET cannot be compared across the years and across different States and, therefore, the Union Territory has adopted the method of written test to be fair between applicants and this requirement was incorporated in the orders contained in the executive instructions issued by the Administrator which are not in violation of the Act of the

Parliament. He admits that all other selections in the Union Territory are based on written test and mentioned in this regard, the ruling of the Hon'ble Apex Court that rules have to be followed strictly for the purpose of selection. Since OA No.168/2015 had quashed the selection process on technical grounds, he therefore, urged that guidelines may be set out by this Tribunal to respondents to complete the selection process at an early date. He also referred to the fact that all Union Territories do not conduct TET and that the selection process contained in the OM did not involve a further investigation of the worth of the qualification of the participant in respect of their other educational qualifications.

14. The learned counsel for the private respondent who intervened in this case and who were applicants in OA No.168/2015 pointed to the faulty prayer in paragraph No.8(a) which has since been amended. He argues that the Recruitment Rules do not provide a methodology for selection and executive instructions are issued later which are the basis for the OMs issued by the respondents. The TET is included in the weightage for minimum qualification

for which 10% has been set aside. He also argues that a written test ensures competition between participants. With regard to the OMs issued by the Administrator, he refers to the ruling of the Hon'ble Apex Court in **Sushil Flour Dal & Oils Mills Vs. Chief Commissioner and Others reported in (2000) 10 SCC 593** dated 29.10.1996 which reads at paragraph No.4 as under:

“4. The Division Bench was, in our view, right in pointing out that there was no delegation of power. Under Part VIII of the Constitution the power to administer the Union Territories vested in the President and the President could exercise that power directly or through an Administrator appointed by him. An Administrator so appointed was the medium through which the President exercised the function of administering the Union Territories. Reliance was also placed by the Division Bench, and rightly, upon Section 3(8) of the General Clauses Act which provides that in relation to the administration of the Union Territories, the Central Government means the Administrator thereof acting within the scope of the authority given to him under Article 239 of the Constitution. No amplification of this position seems to be necessary.”

15. Further, he also argues that TET is not conducted by the Union Territory and it was only after a long period of ten years, that the Union Territory has advertised regular vacancies to which all Indian citizens may apply. Therefore, persons from different States and who had taken TET of various States and other examinations over several years and were within the age limit prescribed, can

apply. In this connection, he refers to the decision of the Hyderabad Bench of this Tribunal in **Hyder Hussain and others Vs. Chief Personnel Officer, S.C.Railway and Others reported in (1996)**

33 Administrative Tribunals Cases 8 in OA No.962/1992 dated 20.09.1995 in which it was held in the context of comparison of merit between the applicant and others, fixation of seniority on the basis of relative merit in different expenses and evaluation for different batches was not permissible and they have recorded as under:

“8. The point that arises for consideration is whether it is possible to assess the comparative merit on the basis of the marks obtained when some appeared in one examination while others appeared in another examination though the syllabus may be same. The questions that will be set will be naturally different. It is not uncommon that where a candidate appears in two successive examinations, the marks obtained by him in the former, will generally be varying from the marks obtained in the later and in only rare cases, he may secure the equal number of marks in both the papers. When it is so, how it will be proper to compare the relative merit on the basis of marks obtained by some in one examination with the marks obtained by others in another examination. So, we feel that there is force in the contention for the applicants.”

16. Therefore, he argues that the Administrator had rightly decided to hold the written test and this had become necessary by virtue of the fact that the earlier decision to adopt TET marks for comparison of candidates in place of a written test

had led to preparation of a provisional select list which has then been quashed in OA No.158/2016.

17. With regard to the allegation that the signatures of the applicants differ in the verification contained in that OA, the learned counsel submitted that he has filed reply along with signatures and photos and that he strongly denied the said allegations.

18. On the aspect of non-joinder of the applicants who found place in the provisional select list, he argues that the list was only provisional and no appointment orders were issued and no right was created for the applicants to argue that they had been adversely affected. In this regard, he relies on the ruling of the Hon'ble Apex Court in **Shithla Sahai Shrivastava Vs. General Manager, North Eastern Railway, Gorakhpur** reported in (1966) 3 SCR 61 : AIR 1966 SC 1197 dated 14.12.1965 which records as below:

“6. On November 28, 1961, the appellant filed a petition under Art. 226 of the Constitution for the issue of a writ of certiorari, impugning the validity of the order dated September 29, 1961 in and by which his name had been removed from the panel. Her contended that the deletion of his name from the panel indefinitely postponed his right of promotion and therefore amounted to a reduction in rank.

7. The respondents contested the petition. They averred that the name of the appellant was deleted from the panel in

accordance with rules, that he had no subsisting right to the post merely by reason of the fact that his name was included in the panel, that the appellant and five other persons were called up for examination on an incorrect assessment of the number of vacancies. It was also contended for the respondents that the provisions of art. 311 were not attracted.

8. By judgment, dated March 14, 1963, the learned Single Judge dismissed the writ petition filed by the appellant. He held that the deletion of the appellant's name from the panel did not amount to reduction in rank under art. 311 and that therefore he was not entitled to the notice prescribed by that article. The learned Judge also held that the appellant had not established that the decision of the respondent amounted to a violation of any constitutional provision or statutory rule.

14. It is to be noted that in the panel prepared by the Selection Board the word 'provisional' was specifically noted against the name of the appellant which clearly shows that he did not acquire a right to the post. The deletion of his name from the panel therefore does not attract the provisions of art. 311. If a civil servant has a right to a particular rank, then the very reduction from that rank will operate as a penalty, for he will then lose the emoluments and privileges of that rank. If, however, he has no right to the particular rank, his reduction from an officiating higher rank to his substantive lower rank will not ordinarily be a punishment : vide Dhingra's Case(1). It is no doubt true that in the said case it has been held that when reversion entails penal consequences, it would be reduction in rank, but the instant case is not one in which penal consequences have been visited on the appellant.

16. It is perhaps true that the hopes of the appellant were raised by reason of the inclusion of his name in the panel. It is also true that the respondent made an incorrect assessment of the anticipated number of vacancies, but the fact remains that his inclusion in the panel was expressly stated to be provisional. The appellant cannot therefore complain of any infraction of the guarantee given by the Constitution to Government servants."

19. Therefore, the learned counsel for the intervenors argues that there was no requirement

for impleading the applicants in that case and therefore, it cannot be argued that the orders in the said OA were vitiated by non-joinder of relevant parties. In any case, he argued by reference to the principles discussed and laid down by the Hon'ble Apex Court in **K.Ajit Babu and others Vs. Union of India and others, reported in (1997) 6 SCC 473** dated 25.07.1977 that the right of review accrues only to parties in the case and in the present issue, the review application earlier filed by the applicant had since been withdrawn in favour of pursuing this OA. He also refers to the decision of the Hon'ble High Court of Bombay in **Shaikh Jabbar Abbas Vs. Union of India and others, reported in 2003 (1) Mh.L.J 543** in which orders have been passed by the State Tribunal reverting "Party B" who was not a party to the proceedings initiated by the "Party A" and could now only challenge the order passed in the OA by filing another OA with the following observations:

"12. The Apex Court, thus, did not approve Central Administrative Tribunal's view that the persons who are not party to a decision, but are affected by the decision of the Tribunal can file review petition seeking review of the decision adversely affecting them. It was held by the Apex Court that whenever an application under Section 19 of the Act is filed and the question involved in the said application stands concluded by some earlier decision of the Tribunal, the Tribunal necessarily

has to take into account the judgment rendered in the earlier cases and decide the application accordingly either by agreeing with the view taken in the earlier judgment or it may dissent and if it dissents then the matter can be referred to the larger Bench/Full Bench and the larger Bench then has to consider the correctness of the earlier decision in disposing of the later application. In the present case, obviously the grievance of the petitioner that his reversion is not in accordance with the law can always be examined in the application under Section 19 of the Act of 1985 and the petitioner can always raise the plea before the Tribunal that the judgment dated 13-12-2001 cannot bind him as he was not party to the said proceeding and in any case as it may happen some time that judgment of Tribunal may affect the persons who are not parties to the case, if that be so, then as noted above legal position laid therein can always be assailed by the affected party and the Tribunal may agree with the earlier view or dissent and if it dissents, the matter can be referred to larger bench and such bench shall then decide the correctness of the earlier decision. In the circumstances, it is not necessary for the petitioner to directly challenge the judgment of the Tribunal dated 13-12-2001 since he was not party in the proceeding wherein the said judgment was passed. He is aggrieved by the reversion order dated 27-6-2002 which in our considered opinion, he can always challenge in the proceeding under section 19 of the Act of 1985.”

20. He also referred to the views expressed by the Hon'ble High Court of Delhi in **Maninder Kaur Vs. Delhi High Court and Ors.**, CW No.3025/1991 dated 03.08.1994 which held that the judgment of the Bench of the High Court cannot be challenged before another Bench except in appellate jurisdiction or by a larger bench on a legal aspect under writ jurisdiction of the High Court although in the general case, a review application would be permissible.

21. In regard to other States like Gujarat who are

adopting TET marks, he argued that there is no such policy laid down in that State and appointments are made on year to year basis which allows them to make reasonable comparisons between candidates based on TET marks but the situation in the respondents area of Daman and Diu is very different. He also pointed out that the applicants have not challenged the allocation of 10% marks for educational and other qualifications in the OM issued by the respondents. The private respondents have filed the earlier OA simply on the ground that no proper procedure has been followed and had not challenged any allocation of marks and the Tribunal has decided to uphold the principles of fair competition by conduct of a written test which cannot certainly cause any prejudice to the present applicants.

22. In rebuttal, the learned counsel for the applicant responded to the issue raised by the official respondents by referring to the Annexure A-7 of the OA wherein the Ministry of Human Resources Development had conveyed its no objection to the Union Territory on recruiting candidates who had qualified in the TET conducted by the Gujarat

State and therefore, it would not be proper in his view for the respondents to now contest the comparative merits of TET of different States. With regard to the arguments of the private respondents, he emphasises that NCTE guidelines have required weightage to be given in TET scores as in 9(b) of the guidelines but no weightage has been given to the office memorandum issued by respondents. He argues that the TET is also an objective examination conducted for all candidates and it is not the argument of the respondents that there is bias in the process. Therefore, the applicants had no objection to decide on the basis of TET marks which could be considered as an equivalent and objective competitive examination and that was why the applicants had not challenged any OMs issued by the respondents. He has also pointed out that all the applicants have passed TET in Gujarat and, therefore, comparison between States did not arise in the present selection. He argued that the decision cited by the private respondents in **Haider Hussain Abhaz** supra related to seniority and differs on fact. He also argued that in the **Shitla** case supra, the issue was of

deletion for the provisional list and whether this amounted to reduction in rank under Article 311, but this was not the issue in the present case and present applicants had accordingly, acquired a right. With reference to the citation by the learned counsel for the private respondents in **K.Ajit Babu** supra, **Maninder Kaur** supra and **Shaikh Jabbar Abbas** supra, he argued that the principles laid down in Ajit Babu supra set out the procedure which needed to be followed. In the event, he also expresses his no objection to referring the matter to a larger bench, if considered appropriate.

23. We have gone through the OA and rejoinder along with Annexures filed on behalf of the applicant. We have also gone through the reply along with Annexures filed on behalf of the respondents and have examined the files and cognized all relevant facts of the case.

24. We have heard the learned counsel for the applicant and the learned counsel for the respondents and carefully considered the facts and circumstances, pleadings, law points, case law and rival contentions in the case.

25. The primary issue in this OA is on determining

whether the Administrator of the Union Territory who is the official respondent in this case had acted correctly in accordance with the Act and Rules applicable for this selection. The post concerned related to primary and upper primary teacher and the respondents had issued an advertisement strictly in compliance with the Recruitment Rules that they had framed in 2011 and which were, in turn, in full compliance with the NCTE guidelines framed by the Competent Authority in the Union Government consequent upon the passage of the Right of Children to Free and Compulsory Act, 2009. The Recruitment Rules issued by the respondents dated 17.08.2011 (Annexure A-18) specified the posts, their numbers, pay scales etc age limit, education and other qualifications and other relevant procedural details relating to the selection process including consideration of the DPC and whether the UPSC had to be consulted. Between these Recruitment Rules and the actual selection, there is a need to determine a practical manner in which selection can be done in a open, fair and competitive manner between participants. The manner and mode of advertising a post has not

been specified in these Recruitment Rules. Therefore, the executive instructions have necessarily to be issued under Article 309 of the Constitution by the Administrator by exercising his delegated powers and after due consultation in accordance with the Rules of Business of the Government of India. This is evidently how the OMs discussed and elaborated at the outset in these orders have been issued to establish a legally valid procedure. It is in these OMs that the marks specified for various aspects of the candidates suitability for the job, has been allocated. The argument of the applicants that the provisions of Act No.35/2009 and NCTE guidelines have been ignored while formulating these provision in the OMs by the respondents is developed by reference to Section 9(b) of NCTE guidelines which requires some weightage to be accorded in the TET. In the first place, the TET itself is a prescribed minimum qualification that has been adopted by the Union Territory in the Recruitment Rules without any alteration. Then Union Territory faces a uniquely awkward situation in which Union Territory itself itself does not conduct a TET but any Indian

Citizen who satisfies the qualifications required for the selection, can participate after passing the minimum qualification of TET. If the respondents had assigned a pre-ordinate role to the TET of the Gujarat Government, the same could have been challenged in a Court of law since applicants across India were eligible to apply, and this would certainly have opened the respondents to the charge of arbitrary decision making through unreasonable and contradictions requirements. Further, as argued by the respondents, in addition to different states conducting TET, the Union Territory was recruiting teachers after a long period of time and candidates had written their examination in different years and, therefore, the argument that all TET marks were comparable and could be used for equitable selection does not bear any logical justification nor merit. A reference to the NCTE guidelines at paragraph No.9(b) also shows that it requires that the school managements should give weightage to TET scores in the recruitment process but qualifying in the TET does not confer a right as it is only one of the eligibility criteria for appointment. Therefore, these guidelines cannot be

considered as having mandated that States or Union Territories cannot prescribe an additional written test that could incorporate their peculiar requirement and meet their peculiar problems in the selection while ensuring a competitive selection process and simultaneously according due regard to the TET itself. This provision will also have to be read with paragraph No.3 that requires TET as a minimum qualification for appointment as Teacher. Therefore, it is evident that these guidelines have been framed under the Concurrent List to guide the processes in States and Union Territories to achieve the goal of children education by laying down a minimal requirement and do not bar the State or Union Territory from improving their selection process beyond these requirements. As admitted by the official respondents, there is a provision of 10 marks for education and other qualifications which includes TET and by inference, it may also be considered that a person who acquires himself well in TET is also likely to do well in the written examination in comparison to one who barely qualifies in the TET examination. Therefore, it cannot be said that participating in the

examination yielding the TET qualification has no bearing on the additional written examination which may cover areas that the concerned school management (Government) consider appropriate for their employees and their wards.

26. The applicants have claimed that their rights have been affected by the interdiction of the provisional list in which they found place, in the orders of this Tribunal in OA No.168/2015, and they should have been heard. We are in agreement that the Hon'ble Apex Court in **Shithla Sahai Shrivastava** supra had held that a provisional list does not confer an enforceable right. In the present instance, this Tribunal in OA No.168/2015 had held that the process adopted was contrary to the principles they had themselves set up for carrying out such recruitments and therefore, the provisional selection had no basis in law or equity and had behind the legal expectations of candidates to whom the OMs had been declared by notification as intention on process while actual process adopted by the respondents was in complete variance. Therefore, the applicants have no case to claim any deficiency of justice in the orders

passed by the Tribunal in the matter. Since we have not found any reasons to disagree with the previous orders of this Tribunal on the principles involved in selection in OA No.168/2015, we do not consider that the allegations of fraud by signature impersonation need any investigation nor do we consider it necessary to refer the matter to a larger Bench.

27. In the circumstances, this OA lacks merits and is dismissed without any order as to costs.

• *(Ravinder Kaur)*
Member (Judicial)

(R. Vijaykumar)
Member (Administrative)

*kmg**

*7D
23/10/10*

