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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 14th May, 2012

+ W.P.(C) 10781/2009

BINDU RANI

..... Petitioner

Through: Ms. Jyoti Singh, Sr. Adv. with
Mr. Susheel Sharma, Mr. Amandeep Joshi and
Mr. Tinu Bajwa, Advs.

versus

GOVT OF NCT & ORS.

..... Respondents

Through: Ms. Purna Shah Deo, Adv. for
Ms. Anjana Gasain, Adv. for R-1.
Mr. O.P. Sharma, Adv. for R2 & R3.
Mr. J.S. Vohra, Adv. for R-4.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. Vide the instant petition, petitioner has prayed as under:-

(i) *To direct the respondent (s) to rectify the mistake committed by them / by Selection Committee while considering the marks of the Petitioner Secured by her in J.B.T exam.*

(ii) *To direct the respondent (s) to appoint to the Petitioner as Assistant Teacher and assign to her the seniority from the date similarly selected candidates were appointed through the Interview conducted by the Selection Committee on 08.01.2008.*

(iii) *To grant to the Petitioner all the consequential benefits including arrears of pay from the date of selection and offer of*

appointment to other candidate (s) who were given appointment through the same selection process.

(iv) To award suitable cost of litigation in favour of the Petitioner and against the respondent (s).

2. The facts in brief are that the petitioner applied for the Post of Assistant Teacher advertised by the respondent School in the month of November, 2007. Against 5 unreserved post of Assistant Teachers, a total 19 candidates applied, who were called for Interview by the duly constituted Selection Committee, constituted under the Provisions of Rule 93 of Delhi School Education Rules, 1973.

3. Having considered the average of marks allotted by the Selection Committee to each candidate in the Interview and by adding the marks on the basis of educational qualifications possessed by them a Statement on Merits was prepared by the School Management, which bears the signatures of all the Members of the Selection Committee.

4. In the said statement, which is available at Page 18(A), Annexure-P-2, the the petitioner was shown at serial no. 12, who obtained overall marks as 45.3. Marks of the last selected candidate are 47.4.

5. Another candidate, namely Ms. Anju Sharma, who was not selected filed a Writ Petition no. 7297/2009 challenging the selection process. Ultimately, the same has been dismissed. The petitioner after obtaining a copy of merit list from the said Ms. Anju Sharma noticed that her marks towards educational qualification were not considered as per the Marking Scheme.

7. Ms. Jyoti Singh, Ld. Sr. Adv. has drawn the attention of this Court to Page 38, wherein it is mentioned as under:-

1. **For Assistant Teacher.**

(a). For Sr. Sec. / JBT Candidates

<i>Post</i>	<i>Secondary</i>	<i>Senior Secondary</i>	<i>J.B.T/ ETT</i>	<i>AdditionalQualification B.A/B.Com/B.Sc./ M.A/M.Sc./M.Phil./Ph.d</i>	<i>Experience</i>	<i>Total</i>	<i>Interview</i>	<i>Grand Total</i>
Asst. Teacher	10	20	30	10	10	80	20	100

(b). For B.A./B.Ed.

<i>Post</i>	<i>Secondary</i>	<i>Senior Secondary</i>	<i>Graduate B.A./B.Com/ B.Sc.</i>	<i>B.Ed.</i>	<i>AdditionalQualification M.A/M.Sc./M.Phil./Ph.d</i>	<i>Experience</i>	<i>Total</i>	<i>Interview</i>	<i>Grand Total</i>
Asst. Teacher	10	20	10	20	10	10	80	20	100

8. Ld. Sr. Counsel submits that grand total of marks were 100. The petitioner got 20 marks in interview and against the Column JBT/ETT, where the grand total is 30, whereas the petitioner got 20 Marks. Therefore, respondents have not considered her JBT Certificate while calculating the Marks, otherwise, she would have got weightage of 30 marks, instead of 20 marks.

9. She further submits that due to this error on the part of the School Management while preparing the merit list, she was shown at VIII Position

by the School Management. Therefore, petitioner filed the instant petition and sought rectification of the error and on rectification of error, services of the last selected candidate i.e. Ms. Gurvinder Kaur, respondent no. 4 may be affected.

10. Ld. Sr. Counsel further submits that respondent no. 4 was not even eligible for the post of Assistant Teacher as per the recruitment Rules. It is further submitted that as per the Minutes of the Selection Committee dated 08.01.2008 (Annexure P-1) at page 16, the appointment is to be made in order of Merit.

11. It is further submits that in B.Ed, she secured 1099 marks out of total 1500 i.e. 73.26%. Therefore if 73.26% is divided by 20% that makes it a total of 14.6%, whereas the respondent School has calculated it as 11.6%. Therefore, this percentage is of neither JBT nor of B.Ed.

12. Respondent no.1 has filed response to the instant petition and submitted that the present petition has been filed in collusion with one Ms. Anju Sharma, who earlier had filed the W.P.(C) no. 7297/2009, happens to be relative of petitioner and the instant petition is after thought.

13. The preliminary objection taken by respondent no. 1 is that instant petition has been filed belatedly. The result of the alleged test has been declared on 08.01.2008. The services of all the selected candidates have been confirmed by the Management. Whatever documents filed by the candidates have been considered and perused by the Management, on consideration thereof, accordance with the Rules and Regulations, the markings were given.

14. Moreover, the perusal of these documents were not in the hands of any single person but it was perused by a team of persons consisting of previous Chairman S. Mansa Singh, Sh. S.P. Singh, Director of Education's nominee, Education Officer Zone III and Mrs. Shanti Gautam, Subject Expert, Principal, Sarvodaya Kanya Vidyalaya Kalyan Vas, Smt. Usha Gupta, then Principal, Guru Nanak Girls Sr. Sec. School. All the aforesaid persons scrutinized the documents and they attended to the candidates, who appeared in the Interview and marking was done as per the scheme for the recruitment of Assistant Teacher.

15. It is further stated that the list of selected candidates were not only displayed on the Notice Board, but copy thereof were sent to the Office of Directorate of Education etc. If the petitioner had any grievance, she would have raised objection within reasonable time. Result of the Interview was announced on 08.10.2008. The petitioner filed the Instant petition somewhere in August, 2009. The services of the selected candidates have been confirmed. The fact remains that she did not raise objection within reasonable time, it shows that she did not have any grievance.

16. As per the report available, the petitioner is a Graduate with B.Ed Degree. Therefore, as per the calculation, the sum total of her average percentage was 33.3% and 12% marks were obtained by her in Interview. Accordingly, the grand total comes to 45.3%. In fact the petitioner was having 58% in B.Ed as mentioned by her in B.Ed mark sheet given at Page 34. But due to some typographical error, 0.69 was written on the selection and marking of B.Ed status in inadvertently written as 58.69%.

17. In the next column, the weightage of marks is given as 11.6% which accounted as per the B.A., B.Ed Qualification of the candidate. This mistake of adding of 0.69 does not affect the weightage. Accordingly, weightage comes to 11.60 for 58% as well as 58.69%. Therefore, weightage of the percentage of 11.6 is correctly taken for percentage 58%.

18. In view of the above submissions, I am of the considered opinion that no error was committed by the respondents in calculation of the marks. I find no merit in the present petition.

19. Accordingly, instant petition is dismissed.

20. No order as to costs.

SURESH KAIT, J

MAY 14, 2012

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