

**HIGH COURT OF TRIPURA
AGARTALA
WA NO.26 OF 2024**

Smt. Basanti Banik

..... **Appellant(s)**

Versus

The State of Tripura and ors.

.....**Respondent(s)**

For the Appellant(s) : Mr. P. Roy Barman, Sr. Advocate.
Mr. S. Bhattacharjee, Advocate.
Mr. K. Nath, Advocate.
Mr. D. Paul, Advocate.
Ms. A. Debbarma, Advocate.

For the Respondent(s) : Mr. Kohinoor N. Bhattacharjee, G.A.
Mr. D. Sharma, Addl. G.A.

Date of hearing and delivery of
Judgment & Order : 16/07/2025

Whether fit for reporting : NO.

**HON'BLE MR. JUSTICE DR. T. AMARNATH GOUD
HON'BLE MR. JUSTICE BISWAJIT PALIT
J U D G M E N T & O R D E R (O R A L)**

T. AMARNATH GOUD(J)

1. Heard Mr. Dipjyoti Paul, learned counsel appearing for the appellant, as well as Mr. D. Sharma, learned Additional Government Advocate, appearing for the respondents.
2. The brief facts of the case are that the appellant filed WP(C) 610/2023 before this Court, seeking, among other things, necessary directions upon the respondents to quash and cancel the order dated 28.11.2022 issued by the Controller of Examinations, Teachers' Recruitment Board Tripura. The appellant also sought to be treated as T-TET 2021 qualified and eligible for

consideration for the post of Graduate Teacher (VI-VIII) as per the Notification dated 01.10.2022. Further directions were also sought for recommending the name of the petitioner-appellant for recruitment to the said post. The learned Single Judge, vide Judgment and Order dated 30.09.2023, dismissed the writ petition. Hence, the present writ appeal.

3. Mr. D. Paul, learned counsel appearing for the appellant, submitted that the learned Single Judge failed to consider that the Prospectus-cum-Instructions for T-TET 2021 clearly stated: "*Candidates who are appearing in the final year of Bachelor Degree in Education (B.Ed.) / Diploma in Elementary Education (D.El.Ed.), etc., are provisionally allowed to appear in the T-TET 2021.*" In view of this condition, it is an admitted fact that, on the date of the T-TET 2021 Examination (03.10.2021), the appellant was appearing in the final year of the D.El.Ed. course. Therefore, she ought to have been considered T-TET 2021 qualified, and her candidature for the post of Graduate Teacher (VI-VIII) ought to have been duly considered. The learned Single Judge also failed to appreciate that 03.10.2021, the date of the examination should have been treated as the cut-off date for determining eligibility to appear in T-TET 2021. Furthermore, the appellant had secured sufficient marks in the examination, and considering the fact that the 2019-2021 session of the D.El.Ed. course was delayed due to the COVID-19 pandemic, an event beyond the appellant's control, a compassionate view should have been taken by the State respondents by declaring her T-TET 2021 qualified.

3.1. To support his argument, learned counsel referred to **Para-9** of the Judgment of the Hon'ble Supreme Court reported in **(2005) 9 SCC 779** titled as ***Dolly Chhanda Vs. Chariman, JEE and other.*** The same is produced here-in-under:-

"9. The appellant undoubtedly belonged to reserved MI category. She comes from a very humble background, her father was only a Naik in the armed forces. He may not have noticed the mistake which had been committed by the Zilla Sainik Board while issuing the first certificate dated 29.6.2003. But it does not mean that the appellant should be denied her due when

she produced a correct certificate at the stage of second counselling. Those who secured rank lower than the appellant have already been admitted. The view taken by the authorities in denying admission to the appellant is wholly unjust and illegal.”

4. On the other hand, Mr. D. Sharma, learned Addl. G.A., appearing for the respondents stated that the appellant was ineligible to apply for the T-TET 2021 conducted by the TRBT under advertisement dated 10.02.2021. She was in the first year of the D.El.Ed. course on the cut-off date for submission of application. Only final year students of D.El.Ed course were permitted to apply. As such, since the appellant lacked the initial eligibility to participate in the T-TET 2021, the respondents could not allow her plea, as it would amount to derogating from the settled principles of law as regards the eligibility of a candidate on the cut-off date for making an application in such competitive test for public recruitment. The Controller of Examinations, TRBT has given due consideration to all the aspects of the matter and despite all-out efforts and humanitarian considerations, did not find any legal basis to allow her claim. It is submitted that if any leniency is shown to the appellant, it may open floodgates which the respondents would not be able to deal with.

4.1. To support this argument, learned Addl. G.A., relied upon **Para-5** of the Judgment of the Hon'ble Supreme Court reported in **(1993)AIR(SCW)1488** titled as **Mrs.Rekha Chaturvedi(Smt) Vs. University of Rajasthan and ors.** The same is reproduced:-

“5. The contention that the required qualifications of the candidates should be examined with reference to the date of selection and not with reference to the last date for making applications has only to be stated to be rejected.

The date of selection is invariably uncertain. In the absence of knowledge of such date the candidates who apply for the posts would be unable to state whether they are qualified for the posts in question or not, if they are yet acquire the qualifications. Unless the advertisement mentions a fixed date with reference to which the qualifications are to be judged, whether the said date is of selection or otherwise, it would not be possible for the candidates who do not possess the requisite qualifications in praesenti even to make applications for the posts. The uncertainty of the date may also lead to a contrary consequence, viz., even those candidates who do not have the qualifications in praesenti and are likely to acquire them at an uncertain future date, may apply for the posts thus swelling the number of applications. But a still worse consequence may follow, in that it may leave open a scope for malpractices. The date of selection may be so fixed or manipulated as to entertain some applicants and reject others, arbitrarily. Hence, in the absence of a fixed date indicated in the advertisement/notification inviting applications should be judged, the only certain date for the scrutiny of the qualifications will be the last date for making the applications. We have, therefore, no hesitation in holding that when the Selection Committee in the present case, as argued by Shri Manoj Swarup, took into consideration the requisite qualifications as on the date of selection rather than on the last date of preferring applications, it acted with patent illegality, and on this ground itself the selections in question are liable to be quashed. Reference in this connection may also be made to two recent decisions of this Court in A.P. Public Service Commission. Hyderabad and Another Vs. B. Sarat Chandra and Others. and District Collector and Chairman. Vizianagaram Social Welfare Residential School Society, Vizianagaram and Another Vs. M. Tripura Sundari Devi."

4.2. Learned Addl. G.A., also relied upon the **Para-19** of the Judgment of the Hon'ble High Court of Delhi titled as **Punjab National Bank Vs. Ghanshyam Kumar and ors** bearing No.LPA 28/2019 & C.M. Appl.2075/2019. The same is produced here-in-under:-

"16. The legal position in this regard has been settled in the decision of a three Judge Bench of the Supreme Court of India in Ashok Kumar Sharma v. Chander Shekhar IB (supra). That decision was rendered by reviewing the earlier judgment in Ashok Kumar Sharma v. Chander Shekhar 1993 Supp (2) SCC 611 where by a majority of 2:1, the Supreme Court held that the relevant date for determining eligibility could be the date of interview. On this issue the Review Bench disagreed and held:

"So far as the first issue referred to in our order dated 1st September, 1995 is concerned, we are of the respectful opinion that majority judgment (rendered by the Dr. T.K. Thommen and V. Ramaswami, JJ) is unsustainable in law, the proposition that where applications are called for prescribing a particular date as the last date for filing the applications, the eligibility of the candidates shall have to be judged with reference to that date and that date alone, is a well-established one. A person who acquires the prescribed qualification subsequent to such prescribed date cannot be considered at all. An advertisement or notification issued/published calling for applications constitutes a representation to the public and the authority issuing it is bound by such representation. It cannot act contrary to it. One reason behind this proposition is that if it were known that persons who obtained the

qualifications after the prescribed date but before the date of interview would be allowed to appear for the interview would be allowed to appear for the interview, other similarly placed persons could also have applied. Just because some of the persons had applied notwithstanding that they had not acquired the prescribed qualifications by the prescribed date, they could not have been treated on a preferential basis. Their application ought to have been rejected at the inception itself. This proposition is indisputable and in fact was not doubted or disputed in the majority Judgement. This is also the proposition affirmed in Rekha Chaturvedi (Smt.) v. University of Rajasthan and others [1993 Suppl. (3) S.C.C 168]. The reasoning in majority opinion that by allowing the 33 respondents to appear for the interview, the Recruiting Authority was able to get the best talent available and that such course was in furtherance of public interest is, with respect, an impermissible justification. It is, in our considered opinion, a clear error of law and an error apparent on the face of the record. In our opinion, R.M. Sahai, J. (and the Division Bench of the High Court) was right in holding that the 33 respondents could not have allowed to appear for interview." (emphasis supplied).

5. Heard and perused the evidence on record.
6. It is revealed from the record that the appellant appeared Part-1 D. El. Ed examination in September, 2021 and result was published on 29.12.2021, which essentially means when notice for T-TET 2021 was issued on 10.02.2021, she was in the first year of D.El.Ed course. As such, it is clearly established that the appellant was in the first year of the D.El.Ed. course as on the cut-off date for submission of applications under the notification dated 10.02.2021 for T-TET 2021. The eligibility condition, as expressly mentioned in the Prospectus-cum-Instructions, permitted only candidates appearing in the final year of the D.El.Ed./B.Ed., course to apply. The appellant, admittedly not in the final year at the relevant time, lacked the minimum requisite eligibility. Her application itself was violative of the declared terms and conditions of the recruitment process.
7. The argument advanced by the learned counsel for the appellant that the appellant was allowed to sit provisionally and scored qualifying marks cannot override the legal requirement of eligibility as held by the Hon'ble Supreme Court in ***Mrs. Rekha Chaturvedi vs. University of Rajasthan(supra)***. Eligibility criteria must be strictly adhered to, and any deviation would not only amount to illegality but also set a precedent detrimental to the integrity of public recruitment processes.

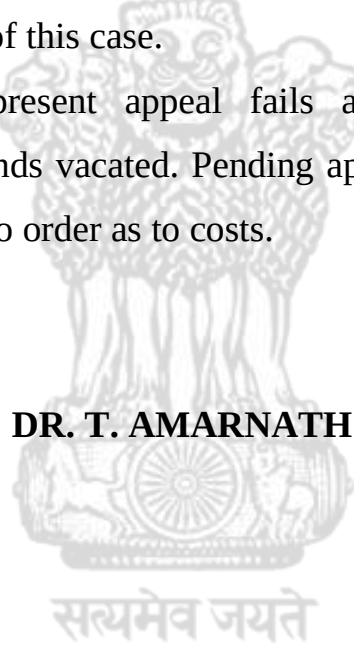
8. Further, the Hon'ble High Court of Delhi in **Punjab National Bank vs. Ghanshyam Kumar & Ors.**, (*supra*) held that a person who acquires the prescribed qualification subsequent to such prescribed date cannot be considered at all.

10. As such, this Court finds no illegality or perversity in the order passed by the learned Single Judge and the same is confirmed as because the appellant was ineligible on the date of application and had violated the basic eligibility norms of T-TET 2021. No compassionate or equitable consideration can be invoked to override a statutory recruitment condition. Further the Judgment as cited by the learned counsel appearing for the appellant is not relevant to the fact of this case.

11. Accordingly, the present appeal fails and is hereby dismissed. As a sequel, stay if any stands vacated. Pending application(s), if any also stands closed. There shall be no order as to costs.

B. PALIT, J

DR. T. AMARNATH GOUD, J



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