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

**+ Rev.Pet.No.483/2015 in
W.P.(C) 1865/2014**

Date of decision : 2nd March, 2016

JASWANT SINGH YADAV Petitioner
Through : Mr. Amarjit Singh Bedi, Mr.
Varun Chandiok and Mr.
Asfar, Advs.

versus

GOVT OF NCT OF DELHI & ORS. Respondents
Through : Mr. Peeyoosh Kalra, ASC
for GNCTD/R-1&2 along
with Mr. Vinay Kumar,
Office Superintendant,
Directorate of Education.
Mr. Manoj Ranjan Sinha,
Adv. for R-3/UGC.

**CORAM:
HON'BLE MS. JUSTICE GITA MITTAL
HON'BLE MR. JUSTICE I.S.MEHTA**

JUDGMENT (ORAL)

GITA MITTAL, J.

Rev.Pet.No.483/2015

1. The petitioner has sought review of the judgment dated 9th April, 2015 whereby his writ petition, assailing the order dated 9th August, 2012 in O.A.No.2858/2011 and review order dated 30th November, 2012 in R.A.No.325/2012 passed by the Central Administrative Tribunal, was rejected.

2. The review petition is premised on the order dated 18th September, 2015 passed in Review Pet.No.346/2015 in ***W.P.(C)No.7309/2013, Baboo Lal Sharma v. GNCTD & Ors.*** wherein the relief was granted to Shri Baboo Lal Sharma, similarly placed as the petitioner. It appears that the offer of appointment dated 16th January, 2009 issued by the respondent no.1 to the appellant for appointment to the post of TGT (Hindi) in the government school in the NCT of Delhi administered by respondent no.1, was withdrawn for the reason that the petitioner's qualification of M.A. (Hindi) was an additional qualification. This decision of the respondent no.1 was upheld by the Central Administrative Tribunal by its judgment dated 9th August, 2012. The review thereof was also rejected on 30th November, 2012. The petitioner's challenge by way of W.P.(C)No.1865/2014 was rejected by us on the 9th of April 2015.

3. Shri Baboo Lal Sharma, petitioner in Review Pet.No.346/2015, similarly placed as the petitioner in the present case, also assailed the order of the respondent no.1 before the Central Administrative Tribunal which rejected his claim as well for the same reasons. We may note that Baboolal Sharma's case was concerned with the post of TGT (Sanskrit). Thereafter, his W.P.(C)No.7309/2013 was also rejected on 9th April, 2015. However, his review petition bearing Review Pet.No.346/2015 has been allowed by us on 18th September, 2015 holding as follows :

“10. Our attention is drawn to the consideration of this very aspect by a co-ordinate Bench of this court in the

judgment dated 7th August, 2013 in *Sachin Gupta* which is in the following terms :

“41. All universities in India do not offer a particular elective subject in all three years’ of graduation course as in the case of Nainika, Vikram Singh and Sachin Gupta, where Delhi University did not teach English/Hindi/Economics in all three years of B.A. program/B.Com (H) course (s) conducted by it. If the corrigendum dated March 30, 2010 is given a literal interpretation, all such candidates who have studied concerned subject i.e. the subject for which they have applied from the Universities which are not teaching said subject in all three years’ of Graduation course offered by them would be rendered ineligible for appointment to the post of T.G.T. despite the fact they have studied the concerned subject in all parts/years in which the subject is taught by the university and have a good understanding thereof. This is absurd. It is a settled legal position that where literal meaning of a statute or rule leads to an absurdity, the principle of literal interpretation need not be followed and recourse should be taken to the purposive and meaningful interpretation to avoid injustice, absurdity and contradiction so that the intent of the purpose of Legislature is given effect to. Therefore, a WP(C) 1520/2012 & conn.matters meaningful and practical interpretation has to be given to the corrigendum dated March 30, 2010 and same should be interpreted as follows: ‘the candidate should have studied the subject concerned as mentioned in the RRs in all parts/years in which the subject was taught during the Graduation course.’”

11. We also find that the Division Bench has

considered the teaching ability of a person who has studied the concerned language at the graduate as well as at the post-graduate level in the following terms :

“50. In view of aforesaid authoritative pronouncements, we hold that respondent Neelam Rana is eligible for being appointed to the post of T.G.T.(English), particularly when the Directorate of Education has placed no material before us to show that the person who has studied English at graduate level would be better equipped to teach English to students vis -à-vis a person who has obtained a Post G graduate degree in English language.”

However, on 9th April, 2015, the attention of this court was drawn only to paras 30 and 32 of ***Sachin Gupta*** and not to the above findings.

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14. Our attention is also drawn to the notification issued by the Government of NCT of Delhi dated 17th January, 1994 regarding the method of recruitment and qualifications necessary for appointment to the post of TGT (Sanskrit) in the Directorate of Education of the Government. Amongst the amendments notified by the concerned government, so far as the qualifications required for direct recruitment are concerned, the respondents have notified the following eligibility qualifications :

“(For appointment as Hindi Teachers only)
Sahitya Rattan of Hindi Sahitya Sammelan
Prayag having secured atleast 45 per cent marks
in aggregate with English in Matriculation
provided further that the requirement as to the
minimum of 45 per cent marks in the aggregate
shall be relaxable in the case of (a) candidate who
possesses a Post Graduate Qualification in MIL

concerned from a recognised University (b)
candidates belonging to SC/ST (c) Physically
handicapped candidates.”

(Emphasis by us)

15. As a result, for a candidate possessing a post-graduate qualification in MIL (Modern Indian Language), a minimum requirement of 45% marks in aggregate at the graduate level is relaxable.

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17. In view of the above discussion, we find that the relevant law on the subject as well as binding notification of the Government of NCT of Delhi was not placed before the Division Bench of this court, resulting in an error apparent on the face of the record.

18. The prayer made in the review petition is justified and admitted by the respondent. The findings of the Division Bench of this court in para 10 of the judgment dated 9th April, 2015 are hereby recalled. It is held that the petitioner fulfilled the basic eligibility criteria laid down in the recruitment rules and notified in the advertisement are possessed the required educational qualifications. The petitioner was, therefore, validly appointed and has to be permitted to join at a place of posting to be effected by the respondent no.1.

19. The claim of the petitioner in the petition before the tribunal as per the Original Application seeking appointment to the post of TGT (Sanskrit) is upheld with the exception that he shall not be entitled to back wages but would be entitled to all consequential benefits such as seniority as per his merit position in the select panel and notional pay fixation with reference to the date of his joining being treated as the one on which the person immediately junior to them joined duty.”

4. It is not disputed that a valid degree recognised by the UGC has been granted to the petitioner. The petitioner possesses the

post-graduate degree of M.A.(Hindi) and therefore, possessed the essential qualification for the post of TGT (Hindi) on the date the appointment letter was issued to him.

5. In view of the above, as in the case of Baboolal Sharma, the relevant law on the subject as well as binding notification of the Government of NCT of Delhi was not placed before us when we passed the order dated 9th April, 2015 resulting in the error apparent on the face of the record. As such, the prayer made in the review petition is justified and is also duly admitted by the respondent before us.

6. As a result, the findings of this court in para 10 of the judgment dated 9th April, 2015 are hereby recalled. It is held that the petitioner fulfilled the basic eligibility criteria laid down in the recruitment rules and are notified in the advertisement, possessing the required educational qualification. Therefore, the offer of appointment was validly issued to the petitioner and he has to be permitted to join the place of posting to be effected by respondent no.1.

7. In view of the above, the claim of the petitioner in the petition before the Tribunal as per the O.A.No.2858/2011 seeking appointment to the post of TGT (Hindi) is upheld with the exception that he shall not be entitled to back wages but would be entitled to all consequential benefits such as seniority as per his merit position in the select panel and notional pay fixation with reference to the date of his joining being treated as the one on which the person immediately junior to them joined duty.

The respondents shall pass the orders in terms of the above within a period of six weeks from today.

This review petition is allowed in the above terms.

Dasti to parties.

GITA MITTAL, J

I.S.MEHTA, J

MARCH 02, 2016

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