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

+ LPA 358/2015

UMA KUMARI

..... Appellant

Through: None.

versus

CHAIRMAN, MANAGING COMMITTEE AIR FORCE SCHOOLS
& ORS.

..... Respondents

Through: Mrs.Rekha Palli, Sr.Adv. with
Ms.Punam Singh and Ms.Garima
Sachdeva, Advocates for R-1.
Mr.L.R.Khatana, Adv. for R-2.
Mr.Anuj Aggarwal, ASC, GNCTD
for R-3.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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27.04.2016

C.M.No.10455/2015 (for delay)

For the reasons mentioned in the application, the delay in filing the appeal is condoned.

Application stands disposed of.

LPA 358/2015

1. This is an unsuccessful writ petitioner's appeal questioning the decision of the learned Single Judge dismissing the claim of irregular and unlawful appointment of the fourth respondent by the first respondent-school (hereafter called 'the school'). The brief facts are that the management of the school advertised a vacancy in the cadre of trained graduate teacher (TGT, Hindi) on 31.01.2012. The last

date for submitting application was 09.02.2012. Both the appellant/petitioner and the fourth respondent applied and appeared in the written examination and were called for interview on 02.03.2012. According to the appellant the fourth respondent neither held TET nor any other comparable qualification such as that. She accordingly caused legal notice to be issued to the school management which ignored it. Aggrieved she approached this Court under Article 226 of the Constitution, which was disposed of in the absence of the management but directed the latter to consider the averments in the notice. The school declined the appellant's contentions and rejected her representation. She therefore approached the Court again under Article 226 and filed W.P.(C) No.5675/2013 which was dismissed by the impugned order.

2. The appellant contends that the fourth respondent's selection was irregular and she despite possessing the necessary qualification was not selected. She has relied upon circular dated 06.03.2012 issued by the Central Board of Secondary Education requiring unaided schools affiliated to the Board to henceforth select and appoint only teachers from amongst those possessing NCTE/TET qualifications. It is submitted that since she alone possesses this qualification the school acted unjustly in denying her the appointment and on the other hand selected and appointed the fourth respondent. We notice that the Single Judge before whom the same contentions were urged had considered the matter. More specifically the terms of the circular/notification of 06.03.2012 were dealt with. There is nothing in the said circular (nor in the opinion of this court could there have

been any stipulation to such effect) that it applied to all selections including ones which are complete. There is no dispute in this case that the advertisement was issued on 31.01.2012 and the last date for submitting the applications for the post was 09.02.2012. On the application of the principle enunciated in *N.L.Davin Katti and Others v. Karnataka Public Service Commission and Others* (1990) 3 SCC 157 it is apparent that the law and the rules/conditions as applicable at the time the advertisement was issued, would have bound the parties i.e. those applying for the post as well as the selecting/recruiting authority. Furthermore – more crucially the circular in this case of 06.03.2012 was issued “after the selection was completed”. In these circumstances, the school could have appointed anyone including fourth respondent on the basis of criteria as it existed at the time of selection.

3. For the above reasons, the court is of the opinion that there is no merit in the appeal. It is therefore dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

APRIL 27, 2016

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