$~15

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

\+ **W.P.(C) 8513/2015**

Date of decision: 4th May, 2016

ISHWARI ..... Petitioner

Through: Petitioner in person with
Mr.Virender, Brother of petitioner.

versus

DELHI SUBORDINATE SERVICES SELECTION BOARD & ORS
..... Respondents

Through: Ms. Harvinder Oberoi, Adv. for R-1 to 3 & 6.
Mr. Ajit Sharma with
Mr. Mayank Aggarwal, Advs. for R-5.
Mr. Madan Kumar Garg,
Superintendent of Education.

**CORAM:**
**HON'BLE MR. JUSTICE SANJIV KHANNA**
**HON'BLE MR. JUSTICE NAJMI WAZIRI**

**SANJIV KHANNA, J. (ORAL)**

1. We have heard petitioner in person who is present in Court with his brother, Mr. Virender. As requested, we have also heard Mr. Virender.

2. The petitioner has challenged the order dated 8th April, 2015 passed by the Principal Bench of the Central Administrative Tribunal in OA No.532/2014.

3. The petitioner had filed the aforesaid OA praying for quashing of advertisement No.1/14 dated 21.1.2014 for Post Code 146/2014

issued by the Delhi Subordinate Services Selection Board (DSSSB, for short).

4. For the sake of convenience, we would reproduce the aforesaid advertisement which had prescribed the eligibility qualification:-

> *"Post Code: 146/14 SPECIAL EDUCATION TEACHER in DIRECTORATE OF EDUCATION*
>
> ***Number of Vacancies**: Total – 670 (UR-242, OBC-237, SC-124, ST-66) including PH-27(OH)*
>
> ***Essential Qualification**: (i) Graduate with B.Ed (Special Education) or B.Ed with a two years Diploma in Special Education or Post Graduate Professional Diploma in Special Education OR any other equivalent qualification approved by Rehabilitation Council of India. (ii) Central Teacher Eligibility Test (CTET) conducted by CBSE.*
>
> ***Pay Scale**: Rs.9300-34800/- + G.P. Rs.4600/-*
>
> ***Age Limit**: Not exceeding 30 year (Age relaxation will be given as per note regarding age relaxation). All those applicants who are working in the SSA as resource persons for the children with Special needs be granted age relaxation to the extent of number of years they have worked in the SSA. General age relaxation of 10 years in case of women candidates be also applied.*
>
> *This post is identified suitable for PH(OH) persons only as per the requisition of the User Department.*
>
> *R.No.F.DE.4(2)330/SET/E-IV/10/262 dt. 15/10/2012."*

As per the aforesaid advertisement, the eligibility qualifications as prescribed for the post of Special Education Teacher in the Directorate of Education were; graduate with B.Ed (Special Education); B.Ed with two years diploma in Special Education; or Post Graduate professional diploma in Special Education. A person

holding any equivalent qualification approved by the Rehabilitation Council of India was also eligible. The petitioner herein is a graduate with B.Ed (Special Education). Thus, she fulfils the first part of the aforesaid qualification. However, she does not fulfil the second part of the eligibility qualification, i.e., she has not passed the Central Teachers Eligibility Test conducted by CBSE, which is also known by the acronym CTET.

5. The petitioner accepts the aforesaid position but submits that CTET conducted by CBSE is for Classes 1 to 5 and Classes 6 to 8. CBSE does not conduct CTET for Classes 9 to 12. The petitioner submits that in this case, as per information received under the Right to Information Act, 2005, funds for the 670 vacancies advertised under Post Code 146/2014 were issued for special education for students at the secondary stage, i.e. for classes 9 to 12. Accordingly, the said eligibility requirement in the advertisement should be struck down as arbitrary and capricious.

6. In order to appreciate the submissions we would like to reproduce the exact plea taken by the petitioner in the original application, the relevant portion of which is as under:-

> *"4.10 The Guidelines regarding special Teachers are developed and planned by Rehabilitation Council of India (RCI) only which is a statutory authority.*
>
> *So The CTET is not applicable to the Special Education Teacher.*
>
> *Further there are three Levels for the post of Special Education Teachers*

*First Level: Pre School/Nursery/Play School Level.*

*Second Level: Elementary (Primary/ Upper Primary) Level, i.e. Class I-V & VI to VIII respectively.*

*Third Level : Secondary and Senior Secondary Level i.e. Class IX to XII.*

*4.11 That the vacancies notified in Post Code 146/14 have required B.Ed. Special Education Qualification. This means that the vacancies are filled for Third Level as mentioned in para 4.9 above i.e. for the class IX to XII which require no CTET Qualification."*

7. We have considered the said contention but regret our inability to agree with the petitioner. We have quoted above the exact advertisement published by the respondents for filling up 670 vacancies under Post Code 140/2014 for the post of Special Education Teacher in the Directorate of Education. The said advertisement does not specify or state that the special teachers would teach students studying in Classes 9 to 12. It was a general advertisement for filling up for vacancies of Special Education Teachers. In the counter affidavit filed by the respondents, they have stated that the National Council for Teachers Education (NCTE), vide notification dated 23.8.2010, has stipulated and laid down that CTET is a minimum essential qualification for a person to be eligible for being appointed as a teacher upto class 8 in a school under Right to Education Act, 2009. Pursuant to the said notification dated 23.8.2010, the Directorate of Education vide notification dated 7.10.2011 has accepted that the minimum eligibility norm would include CTET

conducted by CBSE for appointment of teachers to Classes 1 to 5 and Classes 6 to 8. The advertisement in question was for filling up the post of Special Education Teacher under the Right to Education Act, 2009. In our opinion, it will not be correct and appropriate for either the Tribunal or this Court to set naught and overwrite the mandate set by NCTE. Noticeably, the Rehabilitation Council of India was consulted on this matter and by their letter dated 29.9.2012 have stated that they have no objection for including CTET as one of the minimum essential qualifications for recruitment to the post of Special Education Teacher, provided the post's eligibility requirements include a degree of B.Ed/B.Ed in Special Education. The respondents obviously could not have acted contrary to the mandate of NCTE. As the petitioner does not fulfil the minimum eligibility criteria and as she has not cleared CTET, the Tribunal has therefore rightly dismissed the original application.

8. Noticeably, the Rehabilitation Council of India has filed a counter affidavit before this Court and has stated that they as a statutory body have prescribed the minimum educational qualification for appointment of different professionals within their purview. They state that CTET and TT (Teacher Eligibility Test for Classes 9 to 12) have been made compulsory for appointment of teachers of any category, general as well as special. These tests conducted by the CBSE are essential eligibility requirement which must be satisfied. CTET or TT is not a course, but an eligibility test. The objective and purpose is obvious. It ensures that the candidate's education and knowledge meet a minimum level. Noticeably, even for Special

Education Teachers, B.Ed. is a minimum educational requirement. To this extent, the advertisement and eligibility qualifications are not challenged.

9. In view of the above, the petition is dismissed. There will be no order as to costs.

**SANJIV KHANNA, J**

**NAJMI WAZIRI, J**

**MAY 04, 2016/ak**