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

% Date of decision: 26th May, 2016

+ W.P.(C) 8089/2015, CM No.16731/2015

GOVT. OF NCT OF DELHI Petitioner
Through: Mr. Saurabh Chadda, Adv.

versus

MONIKA SHARMA Respondent
Through: Mr. Santosh Kumar, Adv. for DU.
Mr. Anil Soni, Adv. for NCTE.
Mr. Shriambhra Kashyap, Adv. for
Mr. M.K.Bhardwaj, Adv.

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

SANJIV KHANNA, J. (ORAL)

1. The Government of NCT of Delhi has filed this writ petition impugning the orders dated 13.2.2014 and 1.7.2015 passed by the Principal Bench of the Central Administrative Tribunal in OA No.3870/2012 and RA No.185/2014, respectively.

2. The order dated 13.2.2014 allows the aforesaid OA, and holds that Ms. Monica Sharma was eligible and has a degree/diploma in training/education. Accordingly her case should be processed for appointment as a Post-Graduate Teacher (Sociology). Compliance should be made within six weeks from the date of receipt of a copy of

the order of Tribunal. The second order dated 1.7.2015 dismissed the review application.

3. The controversy which emanates for consideration is whether Ms. Monika Sharma meets the eligibility or essential qualification of a degree/diploma in Training/Education. The eligibility criteria prescribed in Advertisement No.2/2010 and as per the Recruitment Rules, reads:-

“Essential Qualifications: for PGT (excluding Engineering Drawing/Music/Home Science)

1. Master’s Degree (or its equivalent Oriental Degree in the case of PGT Sanskrit/Hind) in the subject concerned from any recognized University.

*2. Degree/Diploma in Training/Education
Qualifications mentioned at S.No.2 above relaxable in case of candidates:*

(i) having obtained Ph.D Degree in the subject concerned from a recognized University/Institution; or

(ii) having obtained First Division in Higher Secondary. Degree and Post Graduate Examination with the mandatory condition that the candidate will acquire the B.Ed./B.T. qualification within a period not exceeding three years from the date of his joining the service”

3. Desirable: 3 years experience of teaching in a College/Higher Secondary School/High School in the subject concerned.”

4. As per the aforesaid, the essential qualifications were (i) a post-

graduate degree in the subject concerned from a recognized university and (ii) a degree/diploma in training/education. Qualification No.(ii) was relaxable where the candidate had a Phd. Degree in the subject concerned from a recognized university/institution or had obtained a first division in the higher secondary, Graduation and Post Graduate examinations. In such cases, the candidates were required to obtain B.Ed. or B.T. qualification within a period of three years from the date of joining service.

5. The respondent has a degree of Bachelor of Elementary Education (B.EL.Ed.) from the University of Delhi. She also holds a Masters degree in Education (M.Ed.) and is Master of Arts in Sociology. She was selected, but denied appointment on the ground, that she did not have a B.Ed. or B.T. degree. The B.EL.Ed. degree was not considered equivalent to a B.Ed. or B.T.

6. The Tribunal in the impugned order has observed that the authorities had failed to examine the question of equivalence of B.EL.Ed., B.Ed & B.T. degrees, by comparing the subjects studied or syllabi. Reference was made to the judgment of the Supreme Court in ***Jyoti K.K. & Ors. vs. Kerala Public Service Commission, (2010) 15 SCC 596*** and the Delhi High Court in WP(C) No.1520/2012, ***Government of NCT of Delhi & Anr. vs. Sachin Gupta***. As the respondent had an M.Ed degree, she could not have been disqualified on the ground that she did not have a B.Ed. degree. The respondent had a higher qualification than what was prescribed. She was qualified and eligible for being appointed to the post of Post Graduate Teacher (Sociology).

7. The petitioner relies on the decision of the Supreme Court in *Yogesh Kumar & Ors. Vs. Government of NCT Delhi & Ors., (2003) 3 SCC 548* to assert that recruitment to public service should be held strictly in accordance with the terms of the Advertisement and Recruitment Rules, if any. Deviation from the Rules would allow entry of ineligible persons and deprive others who could have competed for the said post. The Supreme Court has held that B.Ed. degree although a well recognised qualification in the field of teaching and education, when not prescribed in the advertisement, would not be a valid degree for the post of Assistant Teacher in Primary Schools of Municipal Corporation of Delhi. Only those with Teacher Training Certificate were considered eligible. This distinction was justified as the nature of training imparted for grant of Teacher Training Certificate and the B.Ed. degree were different. B.Ed. course equips the students for teaching higher classes, albeit, specialized Teacher Training Certificate or equivalent courses for teaching small children at the primary level cannot be compared with the training given to students undergoing B.Ed. degree. The Court cannot direct and hold that B.Ed. candidates were eligible. The authorities would consider and decide whether the B.Ed. qualification could be prescribed for primary teachers. B.Ed. holders were rightly excluded from appointment as primary teachers.

8. The petitioner had also drawn our attention to the letter dated 15th May, 2014 written by National Council for Teacher Education in response to a letter of the Directorate of Education, Government of NCT of Delhi. Norms & Standards for B.Ed. & B.EL.Ed. programme

were stipulated in Appendices 3 and 4 respectively of the National Council for Teachers Education (Recognition, Norms and Procedure) Regulations, 2009. The B.EL.Ed. was an integrated Elementary Teacher Education programme of four years after 10+2. A candidate having at least 50% marks at plus 2 level was eligible. The B.Ed. course required a Bachelors degree and/ or Masters degree or any other equivalent qualification with at least fifty per cent marks. For admission to the M.Ed. course, the candidates required at least 55% marks in the B.Ed. course. The National Council for Teacher Education expressed their opinion that those with B.EL.Ed. degree were not eligible.

9. This letter of National Council for Teacher Education makes reference to the determination of minimum qualifications for recruitment of teachers in schools notified on 3rd September, 2001. The said notification prescribes minimum academic and professional qualifications for teachers at the secondary and high school level. For Secondary/High School level, the teacher must be a graduate with a Bachelor of Education degree or equivalent, or should have done the four years integrated B.Sc.B.Ed. or an equivalent course. For teaching at the Senior Secondary, PUC, Intermediate level, the teacher should have a Masters Degree in the relevant subject with a Bachelor of Education or equivalent degree or should have studied the two years integrated M.Sc. M.Ed. course or equivalent course. The authorities/schools were required to make amendments in the Recruitment Rules, in the aforesaid terms. Lastly, the Council had in the letter stated that B.Ed. was a professional course that prepares

teachers for upper primary, middle level or secondary and senior secondary level. The course duration was one year. M.Ed. course was meant for candidates desirous of pursuing a post-graduate programme in Education, besides preparing teacher educators, professors and researchers. National Council for Teachers Education opined that B.Ed. degree being a mandatory qualification for taking admission to the M.Ed. degree, Monika Sharma was not eligible for M.Ed. course. Further, as Ms. Monika Sharma did not have a B.Ed. degree, she was not qualified to be appointed as a Post Graduate Teacher (Sociology).

10. The University of Delhi had treated the degree in B.EL.Ed. as eligible qualification for admission to the M.Ed. degree. Ms. Monika Sharma was permitted to study and was awarded a M.Ed. degree by the University of Delhi.

11. Thus apparently, the University of Delhi and National Council for Teachers Education were taking contradictory stands. Our attention was drawn to the notification dated 28th November, 2014 vide No.F-51/5/2014 NCEE (NNS) issued by the National Council for Teacher Education enacting National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2014 in supersession of the National Council for Teachers Education (Recognition Norms and Procedure) Regulations 2009. As per the said new Regulations, candidates with 50% marks or an equivalent grade in the following programmes: (i) B.Ed., (ii) B.A. B.Ed., BSc. B.Ed., (iii) B.EL.Ed. or (iv) D.E..Ed. an undergraduate degree with at least 50% marks in each were eligible. Thus, this notification dated 28th November, 2014 issued by the National Council for Teacher

Education was contrary to their reply/letter dated 15th May, 2014.

12. In these circumstances, we had issued a notice to the National Council for Teachers Education and the University of Delhi. Their counsels are present in Court and have been heard.

13. The counsel appearing for University of Delhi has stated that B.EL.Ed. is a degree in Education, and a valid and eligible qualification for admission to the M.Ed. course. Counsel appearing for National Council for Teachers Education accepts that the notification dated 28th November, 2014 has been issued and candidates with B.El.Ed are eligible for M.Ed. He submits that the letter dated 15th May, 2014 precedes the said notification and was issued in terms of the 2009 Regulations. Under the 2009 Regulations, the B.Ed. course was for one year after graduation. By notification dated 28th November, 2014, the term of B.Ed. courses has been increased to two years. B.EL.Ed. was and still is a four year course after 10+2.

14. The National Council for Teacher Education, it is apparent, on re-examination has come to the conclusion that candidates possessing a B.EL.Ed. degree would be eligible for admission to the M.Ed. programme. The said degree is now included in the list of degrees, meeting the eligibility criteria. The aforesaid correction and review is in tune with the eligibility norms fixed by the University of Delhi for their M.Ed. programme. Candidates with degrees obtained prior to 28th November, 2014 are equally eligible to seek admission to the M.Ed. programme as per the 2014 Regulations.

15. B.EL.Ed. is a four year under graduate Programme, unlike the

B.Ed. which was for one year and has now been made a two year post graduate course.

16. Ms. Monika Sharma has filed before us details of her educational qualifications as under:-

S. No.	Qualification	Board/University	Year of Passing	Division
1.	Higher Secondary	CBSE	2000	First (With distinction)
2.	B.El.Ed.	Delhi University	2004	First (With distinction)
3.	M.Ed.	Delhi University	2005	First
4.	Masters in Sociology	Delhi School of Economics, Delhi University	2009	Second
5.	B.Ed.	Guru Gobind Singh Indraprastha University	2014	First (With distinction)
6.	Qualified National Eligibility Test (NET-Education)	University Grants Commission	June, 2005 December, 2005 December, 2006 December, 2009 (with JRF)	-

Monika Sharma had passed the 12th standard examination in the year 2000 with distinction. In 2004, she had completed the four year B.EL.Ed. programme with distinction from Delhi University. In 2005 she did her M.Ed. from the University of Delhi with first class. She has a Masters degree in Sociology from the Delhi School of Economics, University of Delhi, in which she had secured second class. Thereafter in 2014, she had obtained the B.Ed. degree from

Guru Gobind Singh Indraprastha University in first class with distinction.

17. The 2009 Regulations were amended pursuant to the order of the Supreme Court in Special Leave to Appeal (Civil) Nos.4247-4248/2009 titled ***Rashtrasant T.M.S. & S.B.V.M.C.A. VID & Ors. vs. Gangadar Nilkant Shende & Ors.*** The Supreme Court had appointed a Commission headed by Mr. Justice J.S.Verma, Former Chief Justice of India in May 2011 to examine the entire gamut of rules/regulations relating to recognition of colleges established for teacher education courses and make suitable recommendations. The said commission had made comprehensive recommendations for improving teacher education in the country and for ensuring that ineligible colleges and institutions do not get recommendation or permission. Thereafter, the Government of India had constituted a group of four eminent educationists to oversee implementation of the recommendations as an Implementation Committee. On the recommendations of the Implementation Committee the earlier regulations were revised. The Supreme Court had then directed the concerned authority including National Council for Teacher Education, to notify the Regulations latest by 30.11.2013.

18. A copy of the agenda note relating to amendments in the Act etc. has been placed before us. The said agenda note refers to the Mr. Justice J.S. Verma Commission Report which was accepted by the Court and thereafter the Action Plan was placed before the Central Advisory Board of Education in its 60th meeting held on 8th November, 2012. It is in this background that the new Regulations

were framed. The agenda records that various committees were constituted to draft regulations for various regulatory functions of the Council. The 2014 Regulations correct and rectify anomalies and incongruities in the 2009 Regulations. We have to read the 2014 Regulations in the said background and not in isolation.

19. We have referred to the conflicting and opposing stands of the University of Delhi and the National Council for Teacher Education. The respondent has suffered for the lack of clarity and disagreement between the two institutions. The respondent has faced unforeseen objections and her career and selection is at peril. The earlier opinion expressed by the National Council for Teacher Education has undergone a change and they have accepted the position affirmed and asserted by the University of Delhi. In these circumstances, the respondent should not be deprived and denied her selection in this obscurity and confusion. B.El.Ed course conducted by the University of Delhi was a four year course, whereas B.Ed at the relevant time was a one year course after graduation. A student who studies a four year specialized course undergoes a thorough and exhaustive study, on how to teach, interact and communicate with the students. It is graduation with a specialization in teaching. The respondent did not stop with B.El.Ed degree and also has M.Ed degree, i.e., the next higher degree. Having studied Masters in Education, she has further developed and sharpened her skills as a qualified teacher. The essential requirement prescribed in the present case is degree/diploma in training/education. The requirement did not specify the nature of degree or diploma. In fact, even B.Ed has not been specified for even

a person with diploma was eligible.

20. The aforesaid factual position, and education qualifications of the respondent are accepted. We are satisfied that the Tribunal was justified in negating the stand of the petitioner and holding that the respondent Monika Sharma was eligible. She has secured rank No.17 in the selection list after tier one and tier two examinations.

18. In *Jyoti K.K. and Ors. vs. Kerala Public Service Commission & Ors.* (supra), the Supreme Court observed that if a person had acquired higher qualifications, such qualifications would pre-suppose acquisition of the lower qualification. A degree holder would be eligible to apply for a post, where the minimum qualification prescribed was diploma holder. When the position was not clear and the rules did not per se disqualify holders of the higher qualifications, it would be appropriate to hold that those with the higher qualifications would be eligible. In *Chandrakala Trivedi vs. State of Rajasthan and Ors.* (2012) 13 SCC 129, the Supreme Court reversed the decision of the High Court observing that the expression 'equivalent' must be given a reasonable meaning. Usage of the expression 'equivalent' means that there are some degrees of flexibility or adjustment which do not lower the stated requirement. Equivalent does not mean exact. In this case, the candidate was declared ineligible for appointment as a teacher for primary and upper primary schools because she had not passed the Higher Secondary/Senior Secondary Examination, the basic qualification for the post in question. She was considered eligible as she had cleared higher examinations. Recently, the Supreme Court in CWP

No.13368/2015, ***Parvaiz Ahmad Parry vs. State of Jammu & Kashmir & Ors.*** decided on 6th November, 2015 has held that while the minimum qualification prescribed for the post of J&K Forest Service Range Officers Grade-I (Forest) was a B.Sc (Forestry) or an equivalent degree from any University recognized by the ICAR, a candidate with a higher qualification was equally eligible. Thus a B.Sc candidate with Forestry as a major subject and M.Sc. in Forestry was eligible. It was observed:-

“25. In our view, if a candidate has done B.Sc. in Forestry as one of the major subjects and has also done Masters in the Forestry, i.e., M.Sc. (Forestry) then in the absence of any clarification on such issue, the candidate possessing such higher qualification has to be held to possess the required qualification to apply for the post. In fact, acquiring higher qualification in the prescribed subject i.e. Forestry was sufficient to hold that the appellant had possessed the prescribed qualification. It was coupled with the fact that Forestry was one of the appellant’s major subjects in graduation, due to which he was able to do his Masters in Forestry.”

21. A Full Bench of the Punjab and Haryana High Court in CWP No.451/2008 ***Manjit Singh vs. State of Punjab & Ors.*** after extensively referring to case law, has held that a candidate possessing a higher degree in the same line cannot be denied consideration for selection, though he does not hold the lower qualification.

22. In the facts of the present case, we have noticed the educational qualification of Monika Sharma. She is B.El.Ed, M.Ed and M.A.(Sociology). We are accordingly satisfied that the impugned order of the Tribunal does not require any interference. The writ

petition is accordingly dismissed. The petitioner will accordingly comply with the direction given by the Tribunal within six weeks from the date of receipt of copy of this order.

SANJIV KHANNA, J

NAJMI WAZIRI, J

MAY 26, 2016/ak