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

+ **W.P.(C) 3209/2017**

**MAMTA SALUJA**

..... Petitioner

Through: Mr. Bharat Bhushan, Advocate.

versus

**GNCT OF DELHI AND ANR**

..... Respondents

Through: Mr. Peeyoosh Kalra, ASC along with  
Ms. Swati Advocate for respondent  
No.1/ GNCTD.

Mr. Naresh Kaushik, Advocate for  
respondent No.2/ UPSC.

**CORAM:**

**HON'BLE MR. JUSTICE VIPIN SANGHI**

**HON'BLE MS. JUSTICE DEEPA SHARMA**

**ORDER**

**17.04.2017**

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**C.M. No.13955/2017**

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

**W.P.(C) 3209/2017**

3. The petitioner has preferred the present writ petition to assail the

order dated 29.07.2015 passed by the Central Administrative Tribunal (the Tribunal), Principal Bench, New Delhi in O.A. No.3136/2013, as also the order dated 16.02.2016 passed by the Tribunal in the review application being R.A. No.38/2016. The Tribunal dismissed the Original Application of the petitioner as well as the Review Application vide the aforesaid impugned orders.

4. The petitioner is working as a Post-Graduate Teacher (English) in Directorate of Education under the Government of NCT of Delhi. She applied for the post of Principal in the Directorate of Education in response to the advertisement issued by the UPSC in the year 2010 to fill up 58 posts. She was called to take the written test, which she took and she was declared successful. The petitioner was, however, not shortlisted for interview. When she made a representation on 04.09.2013, the same was rejected on the ground that she does not possess the essential qualifications A (i), i.e. At least Second Class Masters Degree from a recognised University or Equivalent.

5. The qualifications possessed by the petitioner are Masters Degree in Education in first class from Annamalia University and the Masters Degree in English from Himachal Pradesh University in third division. She also possesses a Bachelors Degree in Education in first division from University of Delhi.

6. Under the Recruitment Rules for the post of Principal, the following educational qualifications are prescribed:

*“Educational and other Essential:  
Qualifications required*

*For direct recruits*

*(i) At least IInd Class  
Master’s Degree from a  
recognized University or  
equivalent.*

*(ii) Degree in teaching  
Education from a recognized  
University or equivalent.*

*(iii) 10 years experience of  
Teaching in a High or Hr.  
Sec. School or an  
Intermediate College.*

*(Qualifications relaxable at  
the Discretion of the Union  
Public Service Commission in  
case of Candidates otherwise  
well Qualified; in particular,  
the Qualification regarding  
experience is relaxable in  
case candidates otherwise  
well qualified; in particular,  
the qualification regarding  
experience is relaxable in  
case candidates belonging  
Tribes for the post reserved  
for them.)”*

7. The rejection of the petitioner’s representation by the respondents was premised on the stand of the respondent, that the degree in teaching education is a professional degree, and apart from the said requirement, the candidate should also have, at least, a second class Masters Degree from a recognised university or equivalent, which is considered as the educational qualification/ degree. According to the respondents, the M.Ed. degree

obtained by the petitioner in first division would not be sufficient to satisfy the requirements of clause (i) aforesaid, since the same cannot be considered to be an educational qualification.

8. Learned counsel for the petitioner submits that the Recruitment Rules do not state that the second class Masters degree cannot be in respect of a professional degree. Learned counsel submits that the petitioner – while seeking review, had sought to place reliance on a decision of the Allahabad High Court in ***Braj Bhushan Tiwari Vs. District Inspector of Schools & Others***, 2003 (50) ALR 149, wherein the Allahabad High Court had held as follows:

*“9. In Dr. Ram Sevak Singh v. Dr. U.P. Singh and Ors. 1999 (2) AWC 1039 (SC): 1999 SCC 538, the rule laying down the qualification for the post of Principal provided :*

*(a) A consistently good academic record (that is to say, the overall record of all assessments throughout the academic career of a candidate) with (sic) first or high second class (that is to say, with an aggregate of more than 54 per cent marks) Master's degree or an equivalent degree of a foreign university in one of the subjects taught in the college or in a subject allied or interconnected therewith.”*

*10. The High Court had proceeded to decide the matter on the basis that the M.Ed. degree is not an academic qualification as referred to in Statute 11.13A and Master's degree would not include M.Ed. degree which is a professional degree relying upon the decision in Dr. Prit Singh 1993 SCC Supp (1) 714. The Apex Court noticed the distinction between the requirement of qualification in the two cases. In Dr. Prit Singh, the required qualification was Master's degree and a degree in education as*

*an additional qualification. Such was also the required qualification which fell for Interpretation in the case of Dr. M.S. Mudhol, (1993) 3 SCC 591. The Apex Court in paragraph 7 of its judgment held as under :*

*7. Therefore, the principal question that falls for consideration is whether M.Ed. degree possessed by the appellant was a qualification for the purpose of appointment as a Principal. In Dr. Prit Singh, the qualification required was a Master's degree in any subject and also a degree in education, whereas in the present case, the qualification required is Master's degree or an equivalent degree in one of the subjects taught in the college or in a subject allied or interconnected therewith. The distinction between the requirement of qualification in these two cases is obvious. In Dr. Prit Singh, the required qualification was a Master's degree and a degree in education as an additional qualification. In the present case, the college imparts education in teaching as well and, therefore, Master's degree in education is a degree in respect of a subject taught in the college, we cannot apply to the ratio settled in Dr. Prit Singh irrespective of the qualifications required for a particular post. In the present case, a master's degree required can include a teaching subject and therefore, M.Ed. degree possessed by the appellant was held to be a sufficient qualification by the Commission. It cannot be said that the principles stated by this Court in Dr. Prit Singh can be applied in the present case because in Dr. Prit Singh the qualifications were a Master's degree and a degree in any subject taught in the college was the requisite qualification. We think the appellant satisfied the same. In regard to the other qualification of "consistently (sic) good academic record" which had been relaxed, this has not been*

*seriously disputed."*

*11. From the aforesaid discussion, it appears that rule which fell for interpretation in the case of Dr. M.S. Mudhol (supra) was different from that in the present case and similar to that in Dr. Prit Singh and the Apex Court did not extend the principles laid down in Dr. Prit Singh to interpret the rule involved for consideration in Dr. Ram Sewak Singh. The regulation laying down the qualifications in the present case is different from that in Dr. M.S. Mudhol. For the reasons given above, it cannot be said that the decision of this Court in Samar Bahadur Singh, 1993 ALL LJ 189, stands impliedly overruled. The result, therefore, is that M.Ed. qualification which the petitioner possesses is a Post-Graduate Degree and the petitioner could not be held to be ineligible treating the said qualification as not being a Post-Graduate Degree."*

9. Learned counsel for the petitioner has also sought to draw support from the qualifications prescribed by the CBSE for appointment of Principals of Senior Secondary/ Secondary schools. He submits that in respect of Senior Secondary schools, the Heads/ Principals would be eligible if they satisfy the set of conditions/ qualifications which are set out in clauses A to E hereinbelow. The said qualifications are exclusive, and one of the qualifications is prescribed as persons possessing Masters degree in Education and having requisite experience – as provided for in any one of the foregoing clauses A to D. The relevant qualification prescribed in the CBSE is as follows:

*"I. Heads*

*1. Senior Secondary Schools:*

A. *(i) Masters Degree or Honours Degree of a Foreign University recognised as equivalent to the Master's Degree of an Indian University by the U.P.S.C. or*

*Honours Degree of such Indian Universities as may be recognized equivalent to the Master's Degree by the U.P.S.C.*

*(ii) A teaching Degree or a Diploma in Education or its equivalent.*

*(iii) Experience as required under anyone of the following clauses:*

*a) At least 3 years experience of administrative charge of a recognised College having Intermediate or higher classes.*

*b) At least 5 years experience of administrative charge of a recognised High School.*

*c) At least 5 years experience of teaching in a recognised college or Higher Secondary School or an equivalent teaching experience in a Teachers Training Institute.*

*d) At least 8 years teaching experience in a recognised High School.*

*e) At least 5 years experience including 3 years educational administrative experience and 2 years teaching experience in a recognised High or Higher Secondary School or a Teachers Training Institute.*

**OR**

*B. Bachelor of Engineering with 5 years teaching experience in a recognised College or Hr. Sec. School (Given effect from 1.1.1977).*

**OR**

*C. Trained Graduate Heads of recognised High Schools who have attained the age of 45 years and possess at least 15 years*

*teaching experience of Secondary classes in a recognised High/Higher Secondary School (including at least 5 years administrative experience as Head of a recognised High School.)*

OR

*D. Persons possessing Masters Degree with at least 15 years teaching experience in a recognised Higher Secondary School and/or a recognised college having attained the age of 45 years.*

OR

*E. Persons possessing Masters Degree in Education and having the requisite experience as provided for in anyone of the forgoing clauses A to D.*

*Note: Two or more categories of experiences can be proportionately combined.”*

10. The reasoning adopted by the Tribunal, as found in the impugned order, may be taken note of. The Tribunal placed reliance on the judgment of the Guwahati High Court in ***C. Lalneihkimi & Another vs. State of Mizoram & Others***, 2002 SCC Online Gau 106; and the judgment of the Supreme Court in ***Dr. Prit Singh Vs. S.K. Mangal & Others***, 1993 Supp. (1) SCC 714.

11. In ***C. Lalneihkimi*** (supra), the Guwahati High Court observed:

*“7. The factual position was some what similar or same in a case before Hon’ble Apex Court in Dr. Prit Singh, Appellant v. S.K. Mangal, Respondents reported as 1993 Supp (1) SCC 714, the relevant part of the judgment will speak out for itself the legal proposition in this context. I quote*

***“11. It need not be pointed out that the Degree of***

*Master of Arts is an academic qualification, whereas Degree of Master of Education is a professional qualification. According to us, when the qualifications required "a consistently good academic record with first or high second class (55% marks/grade B in the seven point scale) Master's Degree in any subject";(emphasis added) it shall mean an academic qualification like Master of Arts. The said requirement was prescribed with "a consistently good academic record". That Master's Degree shall mean Degree of Master of Arts in any subject is apparent also from the fact that apart from that degree the candidate was required to possess also "Degree in Education" which will mean B.Ed, or M.Ed. Normally if the expression "Master's Degree" was to include even the Master's Degree in Education (M.Ed.) there was no necessity of prescribing the third requirement of a "Degree in Education".*

12. If the claim of the appellant that "Master's Degree" shall include a Degree of Master of Education, is accepted, it will lead to an anomalous position. A person having secured third division in M.A. who cannot be considered by any University even for the post of Lecturer, will become qualified for being appointed as a Principal of any College, if later he secures a high second class marks in M.Ed. Examination by completing a course of one year. It need not be pointed out that the sole object of prescribing qualification that the candidate must have a consistently good academic record with first or high second class Master's Degree for appointment to the post of a Principal, is to select a most suitable person in order to maintain excellence and standard of teaching in the institution apart from administration." (emphasis

supplied)

12. Mr. Kaushik, who appears on advance notice, has opposed the petition. He submits that a perusal of the Recruitment Rules clearly brings out the fact that the requirement of a candidate obtaining a professional degree, and of his satisfying the educational criteria are two distinct requirements, and they cannot be merged on the premise that the candidate has acquired a Master's degree in the professional qualification itself. If that were to be permitted, then the Recruitment Rules would have been appropriately worded.

13. Having perused the impugned order & the other documents placed on record and heard learned counsel, we are of the view that the impugned orders do not suffer from any illegality to call for interference by us in judicial review.

14. The Master's degree obtained by the petitioner in English is not relevant for the present purpose, since the same is not a second class Master's degree. This leaves us with the petitioner having a Master's degree in Education, i.e. M.Ed. in first class, apart from the B.Ed. degree, which is a degree in teaching education.

15. We are of the view that the Tribunal is correct in observing that the degree of Bachelor of Education is a vocational/ professional degree. Masters degree in Education is a higher qualification in a professional qualification, i.e. degree in teaching education. A perusal of the Recruitment Rule shows that the same lays down – as essential, the fulfilment of the twin condition to be eligible for appointment to the post of

Principal. The candidate should not only possess a degree in teaching education from a recognised university or equivalent (which may be a graduate level degree, i.e. B.Ed. or a higher level degree, i.e. M.Ed. or even higher), apart from possessing “at least second class Master’s degree from a recognised university or equivalent”. This is the educational qualification prescribed under the rules.

16. Reliance placed by the petitioner on the judgment of the Allahabad High Court in ***Braj Bhushan Tiwari*** (supra) is of no avail. A perusal of the extract quoted hereinabove itself shows that the Recruitment Rule in the present case is on the lines of the Recruitment Rules considered by the Supreme Court in ***Dr. Prit Singh*** (supra).

17. The petitioner has sought to place reliance on the qualification prescribed by the CBSE for appointment of Principals of Senior Secondary/ Secondary schools. Firstly, we are not concerned in the present case with the Recruitment Rules prescribed by the CBSE. Since the GNCTD has its own Recruitment Rules for the post of Principal in the Directorate of Education, the petitioner is governed by the said Recruitment Rules and not the Rules prescribed by the CBSE.

18. Secondly, even a perusal of the Recruitment Rules prescribed by the CBSE for appointment to the post of Senior Secondary/ Secondary schools shows that “Clause (A)”, inter alia, stipulates that the candidate should have: (i) Masters Degree or Honours Degree of a Foreign University recognised as equivalent to the Master’s Degree of an Indian University by the U.P.S.C. or Honours Degree of such Indian Universities as may be recognized

equivalent to the Master's Degree by the U.P.S.C.; and (ii) A teaching Degree or a Diploma in Education or its equivalent. "Clause E", which is one of the other alternatives, prescribes that the person should possess Masters Degree in Education "*and having the requisite experience as provided for in anyone of the forgoing clauses A to D*". Thus, along with possession of a Masters Degree in Education, the candidate should have experience set out in Clauses A to D. Since the Recruitment Rules in the CBSE are substantially different, no reliance can be placed on the same by the petitioner.

19. In these circumstances, we are of the view that there is no error in the impugned order passed by the Tribunal and the same does not call for interference in judicial review.

20. Dismissed.

**VIPIN SANGHI, J**

**DEEPA SHARMA, J**

**APRIL 17, 2017**

*B.S. Rohella*