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

+ **LPA 715/2017 & C.M. No. 48756/2018**

PREETI

..... Appellant

Through: Mr. Sudhanshu Batra, Senior Advocate with Mr. Arvind Kr. Gupta, Mr. Prashant Bhardwaj, Mr. Gajanand Kirodiwar, Mr. Anuraj Tirthankar and Mr. Aditya Mishra, Advocates.

versus

THE DIRECTOR OF EDUCATION & ORS

..... Respondents

Through: Mr. Anuj Aggarwal, ASC, GNCTD for Respondent No. 1 and Respondent No. 2.

+ **LPA 406/2018**

DIRECTOR OF EDUCATION

..... Appellant

Through: Ms. Avnish Ahlawat, Advocate.

versus

MANISHA SHARMA & ANR.

..... Respondents

Through: Mr. Abhishek Kaushik, Advocate for Respondent No.1

CORAM:

JUSTICE S. MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

26.11.2018

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Dr. S. Muralidhar, J.:

1. The central question that arises in both these appeals is whether a degree of B. Ed (Bachelor of Education) is essential for being appointed as Trained Graduate Teacher ('TGT'), in schools to which the Delhi School Education

Rules ('DSER') applies?

2. LPA 715/2017 filed by the Appellant Mrs. Preeti is directed against the judgment dated 18th July, 2017 passed by the learned Single Judge dismissing WP (C) No. 7167/2017 in which she prayed for direction to the Respondents i.e. Directorate of Education ('DOE')/Respondent No.1 and the Lady Irwin Senior Secondary School (Respondent No.3) where she teaches, to promote her to the post of TGT (Maths) so that she could teach classes VI to VIII in the said school.

3. Preeti is working as an Assistant Teacher in the Primary Section of the said school since 20th September, 2008. Her qualifications are M. Sc (Maths). At the time of filing of the writ petition, she had obtained the four year B.El.Ed degree of the University of Delhi. Her candidature for promotion to the post of TGT (Maths) was rejected by the Departmental Promotion Committee ('DPC') on 30th March, 2015 on the ground that she did not have a B. Ed degree and was, therefore, not eligible for the said post.

4. During the pendency of the present appeal, Preeti has also acquired the qualification of B.Ed. However, the DPC which met on 8th October, 2018 did not consider her case for promotion to the post of TGT (Maths) on account of pendency of the present appeal. Seeking a direction to the DPC to consider her candidature to the post of TGT (Maths) Preeti has filed CM No. 48756/2018.

5. The facts in LPA 406/2017 filed by the DOE against the impugned judgment dated 19th March, 2018 passed by the learned Single Judge in

WP(C) No.10521/2017 are that Respondent No.1 Ms. Manisha Sharma, was appointed as TGT (English) in the Vidya Bhawan Girls Senior Secondary School, New Rajendra Nagar (Respondent No.2) on 8th July, 2008. The said school is an aided school. After completion of probation her appointment as TGT (English) was confirmed on 30th September, 2009.

6. By a letter dated 13th January, 2014 issued by the Education Officer, DOE her salary was withheld on the ground that her appointment was illegal and not in accordance with the Recruitment Rules (RRs). According to the DOE she did not possess the essential qualification i.e. the B. Ed degree.

7. Earlier Ms. Sharma filed WP (C) No. 3042/2014 in this Court seeking release of her salary which had been stopped by the order dated 13th January, 2014. That writ petition was disposed of by this Court by an order dated 16th May, 2014 directing the DOE to release 50% of her salary. A direction was issued that in the meanwhile the show cause notice (SCN) dated 10th March, 2014 issued to her should be adjudicated.

8. It is stated that pursuant to the aforementioned SCN, charge sheet was served on Ms. Sharma and an inquiry was held which was concluded on 12th January, 2016. The Inquiry Officer submitted a report on 2nd May, 2016. The Disciplinary Action Committee ('DAC') in its meeting dated 19th May, 2016 imposed a penalty of removal from service against Ms. Sharma. The order in that behalf was issued to her on 17th August, 2016. The ground for her removal was the same viz., that she did not fulfil the basic eligibility requirement for the post of TGT (English) as she did not have a B. Ed degree.

9. Ms. Sharma then approached the Delhi School Tribunal ('Tribunal') with Appeal No. 83/2016. The grounds on which the Tribunal set aside the removal order dated 17th August, 2016 were as under:

(i) There were many other teachers who were promoted to the post of TGT without having a B.Ed degree. Therefore Ms. Sharma was discriminated against.

(ii) The DAC that removed her from service was not constituted in accordance with Rule 1(8) of the DSER.

(iii) The members of the DAC which met on 19th March, 2016 to consider the inquiry report were different from those of the DAC constituted by the order dated 12th June, 2014. Even the members of the DAC who were present on 23rd January, 2016 to decide on the punishment of removal from service was different.

(iv) The decision dated 26th May, 2016 of the Division Bench of this Court in WP(C) No. 8089/2015 (*Government of NCT of Delhi v. Monika Sharma*) Court held that B.El.Ed degree was equivalent to the B.Ed degree.

10. The Tribunal accordingly set aside the removal order and allowed Ms. Sharma's appeal with costs.

11. The aforementioned order of the Tribunal was challenged before this Court by the DOE by filing WP(C) No.10521/2017. The learned Single Judge by the impugned order dated 19th March, 2018 rejected the plea of the

DOE that for the post of TGT, B.Ed was an essential qualification. The learned Single Judge noted that the Bye-Laws of the Central Board of Secondary Education ('CBSE') themselves provided a recognised degree/diploma education as an alternate qualification to be B.Ed for appointment to the post of TGTs. The learned Single Judge further noted that the National Council for Teacher Education (Recognition, Norms and Procedure Regulations, 2014) ('the NCTE Regulations, 2014') could not retrospectively apply to disqualify Ms. Sharma from being appointed as TGT.

12. This Court has heard the submissions of Mr. Sudhanshu Batra, learned Senior counsel appearing for Preeti, the Appellant in LPA No. 715/2017 and Mr. Anuj Aggarwal, learned standing counsel for the DOE. This Court has also heard the submissions of Ms. Avnish Ahlawat, learned standing counsel for DOE and Mr. Abhishek Kaushik, learned counsel appearing for Ms. Sharma in LPA No. 406/2018.

13. Ms. Ahlawat sought to justify the stand taken by the school in Ms. Sharma's case to hold her to be disqualified to hold the post of TGT (English) on the ground that she did not possess the B.Ed qualification. Mr. Anuj Aggarwal, learned standing counsel for the DOE in LPA No. 715/2017 added that the B.Ed qualification might be considered essential for the secondary level classes IX to X and senior secondary level classes XI and XII. Therefore if one were to go only by the qualification needed for teaching from classes VI to X it might not be possible to bifurcate such requirement. In other words, according to him the TGT might be required to

teach even the senior secondary level classes and therefore insisting of the basic B.Ed qualification cannot be considered to be unjustified.

14. What will essentially have to be seen is whether the DSER prescribes the B.Ed as a basic minimum qualification for appointment as TGT? If one goes by the Recruitment Rules (RRs) notified on 5th July, 1972 and then amended on 11th December, 1991 and 1st October, 1999, for the post of TGT the notified educational qualifications are as under:

“I A Bachelor’s degree (Pass/Hons) from a recognized University or equivalent having secured at least 45% in the aggregate in two schools in which at least one of the following should be at the elective level (a) English b) Maths c) Natural/Physical Sciences d) Social Sciences.

....

II. Degree/diploma in training education or SAV certificate.

III Working knowledge of Hindi language at least up to secondary level and/or equivalent.

15. The methods of recruitment for TGT are indicated as both by promotion from Assistant Teacher having a minimum of five years regular service as such and by direct recruitment (70%).

16. The Court repeatedly asked Ms. Ahlawat whether there was any specific bar in the RRs to recognising B.El.Ed also as a degree equivalent to B. Ed. And whether the word ‘Degree’ in the above RRs specifically excluded B. El. Ed?

17. In response Ms. Ahlawat referred to a decision of this Court in ***Atul Haque vs. GNCT Delhi 20 (2001) DLT 188*** where the question was whether for the post of Assistant Teacher B.Ed graduates would be eligible? This was answered in the negative on the reasoning that B. Ed graduates who are specially trained for secondary and senior secondary level of education are best suited for TGT and PGT and not to teach young children of primary stage. The Court fails to see how this decision helps the DOE in the present case where we are concerned with qualifications for the post of TGT. In any event the said decision is not an authority for the proposition that B.El. Ed is not equivalent to B.Ed and is therefore not sufficient for being considered for the post of TGT.

18. In the present case, we are concerned with the post of TGT and one has to look at the relevant RRs which have been referred to hereinbefore. There is nothing therein which indicates that B.El.Ed (a) is not a recognised degree in teacher training (b) that it is not equivalent to B.Ed and (iii) a candidate processing the B.El.Ed degree would not be considered qualified for appointment as TGT.

19. On the contrary the decision of this Court in ***GNCTD vs. Monika Sharma (supra)*** appears to support the cases of the two teachers in these appeals viz., that their B.El.Ed degree satisfies the requirement of the RRs that they should possess the degree in teacher education for being appointed as TGTs. There the Court was concerned with appointments to the post of Post Graduate Teacher (PGT). One of the requirements was that the candidate should possess a degree/diploma in training education. There

again the stand taken by the DOE was that the B.El.Ed degree was not good enough and that only a B.Ed degree satisfied the requirement. This was negated by the Court and it was observed as under:

“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. In Mrs. Preeti's case the learned Single Judge read the requirement of the degree/diploma in training education or SAV certificate as being a requirement additional to the requirement of having B.El.Ed. However, that would be an erroneous reading of the RRs which have been set out hereinbefore.

21. The learned Single Judge in Ms. Sharma's case relied on the CBSE

requirements which provided for the B.Ed degree as an alternative. The precise requirement for TGTs to teach classes VI to X was as under:-

“T.G.Ts (to teach classes VI-X)

English: (Either of the two)

- i) a) Graduate in/with the subject;
b) A recognized Degree/Diploma in education
- ii) B.A. B.Ed, with English of the Regional College of Education"

22. Even if one went by the NCTE Regulations, there is nothing to indicate that the B.El.Ed degree is not a recognised degree or not an equivalent of B. Ed and therefore cannot be accepted as satisfying the minimum qualification needed for TGT. For the upper middle schools section in the NCTE Regulations, the requirements are as under:

“g. That following is prescribed as the minimum qualification for the post of Upper Primary (Middle School Section) in the said NCTE Regulations: -

- (i) Senior Secondary School certificate or Intermediate or its equivalent; and
 - (ii) Diploma or certificate in elementary teachers training of a duration of not less than two years
- OR

Bachelor of Elementary Education (B.El.Ed.)

OR

Graduate with Bachelor of Education (B.Ed.) or its equivalent"

23. Viewed from any angle therefore, the Court is unable to agree with the DOE that for the post of TGT, the B.El.Ed degree will not satisfy the

requirement and only a B.Ed degree is necessary.

24. Consequently, the Court affirms the judgment dated 19th March 2018 of the learned Single Judge in WP (C) No. 10521/2017 and dismisses the LPA No. 406/2018. The consequential orders reinstating Ms. Sharma as TGT in the school concerned will be issued not later than two weeks from today. The costs payable to her in terms of the order of the Tribunal will be duly paid to her within the same period.

25. As far as LPA No. 715/2017 is concerned, the impugned order dated 18th July 2017 of the learned Single Judge in WP(C) No. 7167/2016 is set aside. A direction is issued to DPC to immediately consider the case of promotion of Mrs. Preeti as TGT (Maths) from the date on which she became eligible to such promotion and issue the necessary orders after recognising her B.El.Ed degree itself as sufficient qualification for her to be appointed as such. The exercise be completed not later than four weeks from today. Mrs. Preeti's appeal LPA 715 of 2017 is allowed with costs of Rs.20,000/- which will be paid in equal share by the DOE as well as the School to her within four weeks. The pending application is disposed of.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

NOVEMBER 26, 2018

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