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

+ **W.P.(C) 13802/2018**

MR. PURAN SINGH RANA AND ORS. Petitioners
Through: Mr. Avishkar Singhvi and Mr. Dhruv
Surana, Advocate.

versus

GOVT. OF NCT OF DELHI AND ORS. Respondents
Through: Mrs. Avnish Ahlawat, Standing
Counsel, GNCTD (Services) along
with Mr. N.K. Singh and Ms. Palak
Rohmetra, Advocates for R-1, 2 & 4.
Mr. Manish Mohan, CGSC with
Ms. Manisha Saroha, Adv. for R-3.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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20.12.2018

C.M. No. 53862/2018

1. Exemption allowed, subject to all just exceptions. Application stands disposed of.

W.P.(C) 13802/2018 and C.M. No. 53861/2018

2. The petitioners have preferred the present writ petition to assail the order dated 20.03.2018 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (in short 'Tribunal') in a batch of Original Applications including OA No.2673 of 2016 preferred by the petitioners. The Tribunal rejected the said Original Applications.

3. The petitioners participated in the selection process for the post of

Trained Graduate Teacher (TGT) for various streams in pursuance of the Advertisement No.02/2012 issued by respondent No.2-Delhi Subordinate Services Selection Board (DSSSB). The last date for receipt of applications was 15.06.2012. The advertisement laid down the eligibility conditions in Clause-4. It provided that the educational qualifications, age, experience etc. shall be determined as on the closing date of receipt of applications. One of the essential eligibility conditions prescribed was that the candidates should have cleared the Central Teacher Eligibility Test (CTET) conducted by the Central Board of Secondary Education (CBSE). Admittedly, the petitioners while making their applications had not obtained the CTET qualification, which they obtained later, only in the years 2013, 2014 and 2015. They took the examination against the said advertisement and cleared the same. However, subsequently when the said deficiency in their applications were noticed, their candidatures were cancelled, which led to their filing the aforesaid Original Application.

4. The Tribunal has taken the view—and in our view rightly so, that the petitioners do not acquire any right only on account of the fact that they were allowed to undertake the examination and that they have cleared the same. The eligibility condition had to be met as on the last date of the submission of the application, and since the petitioners did not meet the said requirement of educational qualification, their candidatures could not be considered.

5. The submission of learned counsel for the petitioners is that the Government issued the Notification dated 23.08.2010 under Section 23(1) of the Right of Children to Free and Compulsory Education Act, 2009, whereby it laid down the minimum qualifications required for teachers of,

inter alia, for classes I-V. The same provided for the passing of Teacher Eligibility Test (TET) to be conducted by the appropriate Government in accordance with the guidelines framed by the National Council for Teacher Education for the purpose. It is submitted that it was only on 07.10.2011, that in pursuance of sub-section (1) of Section 23 of the Right of Children to Free and Compulsory Education Act, 2009 that the Notification came to be issued by the Lt. Governor of Delhi to recognize only Central Teacher Eligibility Test (CTET) conducted by the Central Board of Secondary Education (CBSE) for appointment of Teachers for Class I to V, and Class VI to VIII, in the schools of Delhi in lieu of any State Teacher Eligibility Test. The submission is that the CBSE issued the notice for holding the CTET in Delhi only thereafter, and the CTET was held on 29.01.2012. The advertisement in question prescribed last date for submission of the applications as 15.06.2012. By then, the result of the CTET conducted by the CBSE had not been declared and the petitioners are not, in any manner, responsible for the said delay. The petitioners contend that the respondents have the power to relax the said requirement, and the present is a fit case for exercise of the power of relaxation. The further submission of the learned counsel is that all the petitioners had acquired the CTET qualifications before the close of the selection process.

6. Learned counsel for the petitioners has placed reliance on the judgment of the Division Bench of Rajasthan High Court in '**Rajasthan Public Service Commission, Ajmer vs. Manju Chhaba & Ors.**', DB Civil Special Appeal (W) No.127/2016 decided on 04.04.2016, to submit that the conduct of the respondents in allowing the petitioners to participate in the examination, despite their having not cleared the CTET examination till the

last date of the submission of the application forms, tantamounts to waiver of the said condition. We are not impressed with this argument, since Clause (10) of the advertisement clearly provides as under:-

“(10) CANCELLATION OF CANDIDATURE

(i) The candidates applying for the posts should ensure that they fulfil all the eligibility conditions. Merely because a candidate has been allowed to appear at the examination will not be considered as a valid ground for his/her being eligible for the selection. If on verification at any time before or after the written examination or at any stage of recruitment process, it is found that they do not fulfil any of the eligibility conditions on the closing date of receipt of application, his/her candidature for the post applied for, will be cancelled by the Board/Appointing Authority.”

7. On the other hand, Ms. Ahlawat, Standing Counsel, GNCTD, who appears on advance notice, has tendered in Court the judgment of the Division Bench in the case of **‘Annu and ors. vs. Govt. of NCT of Delhi and ors.’**, WP(C) 11328/2017 decided on 11.01.2018. In that decision, this Court considered the identical issues raised by the petitioners in OA No.3227/2016. This Court has already dismissed the said writ petition.

8. Having considered the submission of the learned counsel for the parties, we do not find any merit in the present writ petition. If the grievance of the petitioners was that the prescription in the advertisement in question—that the candidates should have the CTET qualification as on the last date of the submission of the applications, i.e. 15.06.2012, was not justified on account of the fact that the CTET examination was conducted by the CBSE only in January, 2012 and the results were not declared, they should have raised the said grievance contemporaneously i.e. even before applying under the advertisement in question. They did not do so. Instead,

they made their applications, knowing full well that they did not meet the eligibility conditions on the last date of submission of the applications. Merely because they were allowed to participate in the examination does not create a right in their favour since the advertisement itself prescribed that the candidates would not acquire any right on account of such participation. Like the petitioners, there would be hundreds of others aspirants, who did not meet the said educational qualification as on the last date of submission of the application forms under the advertisement in question. They would not have applied in response to the said advertisement, since they would not have considered themselves to be eligible to appear in the said examination. In our view, the petitioners cannot now seek to steal a march over all such aspirants who have been left out of the consideration, and to permit the petitioners to do so would be discriminatory. The matter is squarely covered by the judgment in *Annu and ors.* (supra) and therefore, we find no merit in this submission of the petitioners.

9. In view of the aforesaid discussion, we find no merit in the writ petition and the same is dismissed along with the pending application.

VIPIN SANGHI, J

A. K. CHAWLA, J

DECEMBER 20, 2018

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