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

+ W.P.(C) 8987/2017

ROHITASH KUMAR VERMA Petitioner

Through: Mr. M.K. Bhardwaj, Adv.

versus

SOUTH DELHI MUNICIPAL CORPORATION AND ORS

..... Respondent

Through: Mr. Rajeshwar Dagar with Mr.
Swastik Singh Solanki, Advs. for
SDMC.

Mr. Shivam Singh with Mr. Udian
Sharma, Advs. for NCTE.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

01.11.2018

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1. The petitioner has preferred the present writ petition to assail the order dated 10.11.2016 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. No. 823/2016. The said Original Application preferred by the petitioner was dismissed by the Tribunal. The petitioner was aggrieved by the non-issuance of the appointment letter to him for the post of teacher (Primary) even though, he had been found eligible for participation in the selection process as per the Rules of the eligibility criteria prescribed. The petitioner had been declared as selected by the respondent No.3 – Delhi Subordinate Service Selection Board (DSSSB) and his dossier was sent by respondent No. 3 to respondent

Nos. 1(South Delhi Municipal Corporation) & 2 (Director of Education South Delhi Municipal Corporation) along with the dossiers of all other selected candidates. After verification, he was issued an appointment offer on 26.10.2015 – to which he sent his acceptance. On that stage, the respondents raised objections regarding the petitioner’s qualification. The precise objection raised by the respondents was with the B.Ed Bal Vikas Integrated Course Degree obtained by the petitioner, did not meet the eligibility qualification prescribed under the Recruitment Rules which, inter alia, reads:

“(ii) Two year’s Diploma/ Certificate Course in Elementary Teacher Education Course/ Junior Basic Training or equivalent or bachelor of elementary education from a recognised institution.”

2. Mr. Bhardwaj submits that the NCTE is the statutory authority which is empowered to lay down the norms with regard to the recognition of teacher training courses all over the country. The Course undertaken by the petitioner of B.Ed Bal Vikas Integrated Course Degree is the recognised course of the NCTE. He further submits that the respondent Nos. 1 & 2, on their own referred the issue – whether the petitioner’s qualification meets the eligibility criteria under the RPS.

3. NCTE has responded by stating that the petitioner’s qualification of B.Ed Bal Vikas Integrated Course Degree from Janardan Rai Nagar Rajasthan Vidyapeeth, Udaipur, Rajasthan is an equivalent qualification for the post of teacher.

4. Mr. Bhardwaj submits that the NCTE was directed to be impleaded as a party respondent before this Court and in response to the notice issued to

the NCTE, they have also filed their counter-affidavit. In the said affidavit, the stand taken by the NCTE is, inter alia as follows

“It is further submitted that the Northern Regional Committee and the answering respondent informed the Govt. that the petitioner’s qualification B.Ed Bal Vikas Integrated Course Degree from JRN Rajasthan Vidyapeeth, Udaipur, Rajasthan is an appropriate qualification for the post of the teacher.”

5. Mr. Bhardwaj submits that in the light of the aforesaid, the petitioner is entitled to be appointed by the respondent Nos. 1 & 2 to the post of teacher (Primary).

6. Learned counsel for the respondent Nos. 1 & 2 submits that since a large number of qualified candidates have applied, it is for the respondent Nos. 1 & 2 to decide whether or not to treat the qualification of the petitioner as satisfying the eligibility criteria. He places reliance on the judgment of Division Bench of this Court in **Anita Kumari Patelia v. Administrative Officer, MCD & Ors.**, LPA No. 1325/2007, decided on 16.11.2007, MANU/DE/8941/2007.

7. Learned counsel for NCTE however, supports the case of the petitioner. He points out that the NCTE is a Central piece of legislation and is enacted by the Parliament by reference to Entry 66 of List I to Schedule VII to the Constitution of India which reads “*co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions.*” He submits that institutions imparting teacher education fall within the meaning Technical Institutions. He further submits that since the field is occupied under the said Entry, respondent Nos. 1 & 2 have no legislative or executive authority to take

decisions with regard to the equivalence of qualification, as also whether the course recognised by the NCTE is equivalent to the two-year diploma certificate course in elementary teacher education. He submits that the NCTE has recognised several courses of different duration, and the B.Ed Bal Vikas Integrated Course Degree at Janardan Rai Nagar Rajasthan Vidyapeeth, Udaipur, Rajasthan, is equivalent to the two-year diploma/certificate course in elementary teacher education and is undertaken at a recognised institution.

8. Reliance placed by respondent Nos. 1 & 2 on the decision in **Anita Kumari Patelia** (supra) is misplaced. This was a case where the candidate had undertaken only a six-month diploma course, whereas the eligibility criteria prescribed that the duration of the course should be not less than 2 years. Unlike in the present case, the NCTE had not come forward to declare the equivalence of the course undertaken by the petitioner in that case, with the course prescribed as the eligibility criteria.

9. The submission of learned counsel for respondent Nos. 1 & 2 that there are “better qualified” candidates available and, therefore, it is up to the respondent Nos. 1 & 2 to decide whether or not to entertain the candidature of the petitioner, is completely misplaced.

10. It is not for respondent Nos. 1 & 2 to make the said assumption, in the first place. That exercise is undertaken by the DSSSB. Secondly, the petitioner has actually been found to be meritorious and, therefore, was made the appointment offer in preference to many others who were not made a similar offer. Thirdly, to permit respondent nos. 1 and 2 to take such a stand, would amount to allowing them to pre-judge the merit of the candidate, and after arriving at such an erroneous assessment, declare the

candidate to be unqualified. The fact that respondent nos. 1 and 2 themselves sought the response of the NCTE shows that even the said respondents recognise the fact that the ultimate authority in the matter of declaring equivalence of the course undertaken by the petitioner, with the educational qualification prescribed in the eligibility criteria, is the NCTE.

11. In our view, the impugned order cannot be sustained and, is accordingly, set aside. The petition is allowed.

12. Respondent Nos. 1 and 2 are directed to forthwith issue an appointment letter to the petitioner. In case, the petitioner joins his duties, he shall be granted notional seniority and his pay should be notionally fixed from the date when his other batch mates were granted the same. However, he shall not be entitled to any arrears of pay or any other allowances since he has not actually worked on the post.

13. Accordingly, the petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

A. K. CHAWLA, J

NOVEMBER 01, 2018

N.Khanna