

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

Date of Order: March 19, 2018

+ **W.P.(C) 10521/2017 & CM 43050/2017**

DIRECTORATE OF EDUCATION Petitioner
Through: Mr. Anuj Aggarwal, ASC with Ms.
Deboshree Mukherjee, Advocate

versus

MANISHA SHARMA AND ANR. Respondents
Through: Mr. Abhishek Kaushik, Advocate

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Impugned order of 28th July, 2017 (*Annexure P-1*) sets aside order of 31st October, 2016 vide which first respondent was removed from service as she did not fulfil the eligibility criteria as contained in the Recruitment Rules for the post of TGT (English). It is matter of record that first respondent was appointed as TGT (English) w.e.f. 8th July, 2008 on the recommendation of Staff Selection Committee and upon completion of her probation period, as per order of 30th September, 2009, she was confirmed as TGT (English) from 1st July, 2009. As per Memorandum of 10th March, 2014, a complaint was received by petitioner regarding appointment of first respondent being irregular and as per this Memorandum, first respondent was possessing degree of

B.El.Ed., whereas for the post of TGT, degree of B.Ed. was required as per Recruitment Rules.

2. It is the case of petitioner that upon receiving the said complaint, first respondent was placed under suspension and was charge-sheeted and after an Inquiry, penalty of removal from service was inflicted upon first respondent.

3. Impugned order takes note of the fact that first respondent had taught as TGT (English) for almost six years and while relying upon decision of Division Bench of this Court in Govt. of NCT of Delhi v. Monika Sharma in W.P. (C) 8089/2015 rendered on 26th May, 2016, the penalty order has been set aside.

4. The challenge to impugned order by learned counsel for petitioner is on the ground that as per the Affiliation Bye-Laws of Central Board of Secondary Education, a TGT has to teach Classes VI to X and since petitioner is holding a degree of bachelors in Elementary Education, so she is not equipped to teach beyond Class VIII. Attention of this Court is drawn to *the National Council for Teacher Education (Recognition Norms & Procedure) Regulations, 2014* (hereinafter referred to as '*the Regulations of 2014*') to point out that as per these Regulations, a bachelor of elementary education can teach Classes I to VIII. It is submitted that there is no classification of TGT teachers so as to bifurcate teaching of Classes from VI to VIII and that of Classes IX and X. So, it is submitted that it is very difficult to appoint one set of teachers to teach Classes VI to VIII and to appoint different set of TGT teachers to teach Classes IX and X. Reliance is placed upon a decision of a Co-ordinate

Bench of this Court in W.P. (C) 7167/2016 titled *Preeti v. The Director of Education and Ors.* (Annexure P-7) wherein a candidate having degree in elementary education was not held to be fit to be promoted as TGT as the stipulation of degree/diploma in training education has to be read in conformity with the norms and standards issued by National Council for Teacher Education. Lastly, it is submitted that learned Tribunal has erred in relying upon decision in *Monika Sharma (supra)* as in the said case, *Monika Sharma* had M.Ed. degree, which is a higher qualification and so, the case of petitioner cannot be treated at par with that of *Monika Sharma*. So, it is submitted that impugned order deserves to be set aside.

5. On the other hand, learned counsel for first respondent supports impugned order and submits that the Recruitment Rules for the post of Trained Graduate Teacher do not require a candidate to possess B.Ed. degree. It is pointed out that the only requirement as per the Recruitment Rules is of possessing degree/diploma in Training Education. It is submitted that the decision in *Preeti (supra)* is of no assistance to the case in hand, as the said case was of promotion and the norms, which have been relied upon came into force in November, 2014 whereas the case in hand pertains to the period prior thereto. So, it is submitted that the Regulations of 2014 cannot be given retrospective effect.

6. Regarding the Bye-Laws of Central Board of Secondary Education, it is submitted by learned counsel for respondent No.1 that even as per these Bye-Laws, a graduate in the subject having recognized degree/diploma in education is qualified to be appointed as TGT and in the instant case, petitioner has a degree in Elementary Education and so,

she was duly appointed as TGT. It is also the submission of learned counsel for first respondent that even in the Advertisement issued in the year 2017 for the post of TGT, the essential qualification required is degree/diploma in training education and it is nowhere provided that a degree in B.Ed. is essential qualification for being appointed as a TGT. So, it is submitted that impugned order deserves to be upheld and this petition ought to be dismissed.

7. Upon hearing and on perusal of impugned order, record of this case and the decisions cited, I find that as per the Recruitment Rules for the post of Trained Graduate Teacher (TGT), essential qualification is Bachelor Degree and a Degree/Diploma in Training Education. The Recruitment Rules nowhere require a degree in B.Ed. as an essential qualification. It is worthwhile to refer to the relevant extract of the Bye-Laws of the Central Board of Secondary Education, which have been placed on record by petitioner's counsel. The essential qualifications of TGT (English), who are to teach Classes VI to X are 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”*

8. A Division Bench of this Court in *Monika Sharma (supra)* has categorically observed as under: -

“The essential requirement prescribed in the present case is degree/diploma in training/education. The requirement did not specify the nature of degree of diploma. In fact, even B.Ed. has not been specified for even a person with diploma was eligible.”

9. Reliance placed by petitioner’s counsel upon a decision (*Annexure P-7*) of a Division Bench of this Court is of no avail for the reason that the Regulations of 2014 cannot be given a retrospective effect and because the said case was of promotion whereas the instant case is of removal after first respondent had served for more than six years.

10. In the considered opinion of this Court, learned Delhi School Tribunal has rightly relied upon the decision of *Monika Sharma (supra)* and since the Recruitment Rules in question do not stipulate that B.Ed. is an essential qualification, therefore, the removal of first respondent from service has been rightly set aside by learned Tribunal. Thus, finding no substance, this petition and the application are dismissed while vacating the interim order and leaving the parties to bear their own costs.

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(SUNIL GAUR)
JUDGE

MARCH 19, 2018

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