

\$~36

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 557/2019**

GOVT OF NCT DELHI & ORS Petitioners
Through: Ms. Avnish Ahlawat, Advocate

versus

PRADEEP KUMAR & ORS Respondents
Through:

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER
% **21.01.2019**

C.M. No. 2542/2019

Exemption allowed, subject to all just exceptions.

The application is disposed of.

W.P.(C) 557/2019 & C.M. No. 2541/2019

1. The Government of NCT of Delhi has preferred the present writ petition to assail the order dated 20th August, 2018 passed by the Tribunal in OA 1047/2014. The said Original Application had been preferred by the respondents with the grievance that though they had secured more marks than the last selected General category candidates in the examination held by petitioner No. 2/DSSSB for selection of Special Education Teachers, they had not been declared successful relying upon the fact that they were OBC category candidates belonging to other states and the Central Teachers Eligibility Test (CTET) certificate issued by the Central Board of Secondary

Education (CBSE) in respect of such applicants was on the premise that they were OBC category candidates for whom there was a lower pass percentage prescribed.

2. The petitioner vide advertisement 1/13 published by DSSSB invited applications for the post of Special Education Teacher under the post code 1/13. 927 vacancies advertised included 468 Unreserved, 251 OBC, 139 SC and 69 ST, category seats. The seats were also reserved for the physically handicapped candidates. The essential qualifications prescribed in the advertisement were as follows:

“i) Graduate with B.Ed. (Special Education) or B.Ed. With a two years Diploma in Special Education or Post Graduate Professional Diploma in Special Education or any other equivalent qualification approved by Rehabilitation Council of India.

ii) Central Teacher Eligibility Test (CTET) conducted by Central Board of Secondary Education (CBSE).”

3. The respondents, admittedly, secured more marks than the last selected General category candidates. Despite the fact that the respondents secured more marks than the last selected General category candidates, they were denied appointment only on account of the fact that in the CTET examination, they were declared successful on account of the fact that CBSE has prescribed relaxed standards of pass percentage for reserved category candidates.

4. The petitioner contended that since the marks obtained by the respondents in the CTET examination was below 60% – which was the pass

percentage prescribed for the General category candidates, the respondents could not rely upon the said CTET certificates granted as OBC category candidates, while staking claim for an unreserved vacancy.

5. The Tribunal has rejected this submission, and in our view, rightly so. The submission of Ms. Ahlawat is that since the respondents had obtained the CTET qualification on the basis of relaxed standards prescribed for OBC category candidates, they cannot rely upon the said certificate while offering their candidature for the unreserved category seats in respect of the advertisement in question.

6. We cannot agree with the submission of Ms. Ahlawat as, in the advertisement, the petitioner had not prescribed that candidates who apply on the basis of CTET qualification obtained as OBC category, would not be eligible in respect of General category seats if they have secured less than 60% marks in the CTET examination. Once a candidate has obtained the CTET qualification, in our view, it does not matter, whether the candidate is General category or Reserved category candidate. If the submission of the petitioner were to be accepted, there would be no end to extending this line of argument to any length, and it might be argued that the reserved category candidates, who obtained admission in the educational institution on the basis of their caste, should be kept out of consideration for selection against unreserved category posts for all times to come. The petitioner has conducted the examination for purpose of assessing comparative merit of the candidates, and the respondents have come out more meritorious than several other unreserved category candidates, who stand selected. That

examination in our view, could be the only criteria for assessing the comparative merit of the candidates and for their selection. Otherwise, the examination held by the petitioner for purpose of selecting the most meritorious candidates would, itself, lose its significance and credibility.

7. For the aforesaid reasons, we find no merit in this petition. The petition is accordingly dismissed.

VIPIN SANGHI, J

A. K. CHAWLA, J

JANUARY 21, 2019
rd