

\$~1, 2, 3, 4 & 5

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

Date of Decision: 09.01.2020

+ W.P.(C) 42/2020 & CM APPL.161/2020

RAJNISH SHARMA

..... Petitioner

Through: Mr. Pradeep Kumar Arya,
Mr.Priyanshu Malik, Mr. A.
Kalra, Mr. Gaurav Chaudhary
& Ms. Deepika, Adv.

Versus

DELHI SUBORDINATE SERVICES SELECTION BOARD &
ORS.

.... Respondents

Through: Ms. Avnish Ahlawat, Standing
Counsel (GNCTD) with
Mr.N.K. Singh, Adv.

+ W.P.(C) 43/2020 & CM APPL.162/2020

CHAMPAK KUMAR

..... Petitioner

Through: Mr. Pradeep Kumar Arya,
Mr.Priyanshu Malik, Mr. A.
Kalra, Mr. Gaurav Chaudhary
& Ms. Deepika, Adv.

versus

DELHI SUBORDINATE SERVICES SELECTION BOARD &
ORS.

..... Respondents

Through: Ms. Avnish Ahlawat, Standing
Counsel (GNCTD) with
Mr.N.K. Singh, Adv.

+ W.P.(C) 44/2020 & CM APPL.165/2020
SONU Petitioner
Through: Mr. Pradeep Kumar Arya,
Mr.Priyanshu Malik, Mr. A.
Kalra, Mr. Gaurav Chaudhary
& Ms. Deepika, Advs.

versus

DELHI SUBORDINATE SERVICES SELECTION BOARD &
ORS Respondents

Through: Ms. Avnish Ahlawat, Standing
Counsel (GNCTD) with
Mr.N.K. Singh, Adv.

+ W.P.(C) 45/2020 & CM APPL.167/2020
RAJESH Petitioner
Through: Mr. Pradeep Kumar Arya,
Mr.Priyanshu Malik, Mr. A.
Kalra, Mr. Gaurav Chaudhary
& Ms. Deepika, Advs.

versus

DELHI SUBORDINATE SERVICES SELECTION BOARD &
ORS. Respondents

Through: Ms. Avnish Ahlawat, Standing
Counsel (GNCTD) with
Mr.N.K. Singh, Adv.

+ W.P.(C) 46/2020 & CM APPL.168/2020
LALIT Petitioner
Through: Mr. Pradeep Kumar Arya,
Mr.Priyanshu Malik, Mr. A.
Kalra, Mr. Gaurav Chaudhary
& Ms. Deepika, Advs.

versus

DELHI SUBORDINATE SERVICES SELECTION BOARD &
ORS. Respondents

Through: Ms. Avnish Ahlawat, Standing
Counsel (GNCTD) with
Mr.N.K. Singh, Adv.

CORAM:
HON'BLE MR. JUSTICE G.S. SISTANI
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

J U D G M E N T

G.S.SISTANI, J. (ORAL)

These five writ petitions raise common questions of fact and law and the same are accordingly being decided by this common judgment.

2. For sake of convenience, the facts in the case W.P.(C) 45/2020 titled *Rajesh vs. Delhi Subordinate Services Selection Board & Ors.* are being noticed.

3. Pursuant to advertisement dated 11.12.2017 issued for the post of Drawing Teacher with Post Code – 91/17, the petitioner made an application vide registration No. F.DE.4(6)(263)/E-IV/2017/718.

4. Having made an application, the petitioner appeared for a computer based examination on 29.09.2018, wherein he was declared successful and short-listed, having obtained 87.50 marks. However the candidature of the petitioner was rejected on 27.05.2019 for the reason

that the petitioner has no BFA/MFA degree; which rejection has led to the filing of this writ petition. Similar are the orders of rejection for all other writ petitioners.

5. The petitioner in W.P.(C) No.45/2020 had obtained a Degree of Bachelors of Arts in the year 2011 and Bachelors of Arts (Additional) in Art & Clay modeling in the year 2017. The eligibility criteria for TGT (Drawing) is set-out hereinbelow :

" Educational Qualification:- Essential:-

1. Five years Diploma in Drawing/Painting/Sculpture/ Graphic Art from a university/institute recognized by the Govt. of India.

OR

2. Master's Degree in Drawing and Painting/Fine Art from a recognized university.

OR

3. Bachelor's Degree in Drawing/Painting/Fine Art plus two years full time Diploma in Painting/Fine Art from a recognized university/ institution.

Desirable:-Studied Hindi as a subject up to Secondary/Senior Secondary school level."

6. The chart showing the particulars of each writ petition, including name of each petitioner, the qualifications, the post applied for, are detailed below :

S. No.	Case No.	Name of Petitioner	Qualifications of Petitioner	Additional qualifications of petitioner	Post applied for
1.	W.P. (C) No. 42 of 2020	Rajnish Sharma	B.Com -2011	B.A. (Additional) Economics and Political Science - 2016	TGT (Social Science) Male/post code- 137/17
2.	W.P. (C) No. 43 of 2020	Champak Kumar	Bachelor of Arts- 2009	B.A. (Additional) Urdu - 2017	TGT (Urdu) Male /post code- 146/17
3.	W.P. (C) No. 44 of 2020	Sonu	B.A. (Hons.) - 2007	B.A. (Additional) Arts - 2017	TGT Drawing Teacher/ post code- 91/17
4.	W.P. (C) No. 45 of 2020	Rajesh	Diploma in painting /fine arts- 2010	B.A. (Additional) Art and Clay Modeling- 2017	TGT Drawing Teacher/ post code- 91/17
5.	W.P. (C) No. 46 of 2020	Lalit	Bachelor of Arts-2014	B.A. (Additional) Urdu & Psychology - 2017	TGT (Urdu) Male/post code- 146/17

7. The table set-out in para 6 above would show that while all petitioners had graduated and had a Bachelor's degree in a particular subject or had a general Bachelor's degree, the petitioners had applied for the post of Trained Graduate Teacher (TGT) for a subject in which the petitioners only had a degree as an 'additional subject'.

8. A reading of the eligibility criteria would make it clear that one of the essential requirements, say in the case of the petitioner in W.P.(C) No.45/2020, is a Bachelor's Degree from a recognized university in addition to two years full-time Diploma in painting/fine art from a recognized university/institution, which that petitioner admittedly does not possess.

9. Mr. Arya, learned counsel for the petitioners, has relied upon a judgment *P.M Bhargava & Ors. vs. University Grants Commission & Anr.* (2004 6 SCC 661); and relying upon this judgment, he submits that the additional course/subject taken by the petitioners would satisfy the eligibility criteria.

10. Upon a perusal of the said judgment however it is clear that the decision of the Supreme Court in that case is not an authority on the proposition that an additional course/subject taken-up by a candidate would make him eligible for a post that prescribes a certain qualification. The essence of the decision of the Supreme Court in *P.M Bhargava* (supra) is that courts are not experts in academic matters ; and it is not for the court to decide what course should be

taught in universities or what should be included in the curriculum, which are academic matters, best left to the decision of experts.

11. If anything, this decision of the Supreme Court reads against the petitioner, inasmuch as the Supreme Court judgment would lead us to hold that it is not for the court to second guess the qualifications laid down for a particular post ; nor is it for the court to rule that a BA degree obtained in a subject studied as an 'additional subject' is good enough to fulfill the eligibility criteria laid down by the respondent.

12. This judgment however even otherwise does not apply to the facts of this case since the petitioners here do not even meet the eligibility criteria. To the contrary, the case of the petitioners is covered against them by **Govt. of NCT of Delhi & Ors. vs. Sachin Gupta** in WP. (C) 1520/2012 and connected matters decided on August 07, 2013, relevant paras of which are reproduced below :

"15. In the year 2003 the respondent of W.P. (C) No.2514/2012; namely, Snehlata obtained a B.A. degree from Maharishi Dayanand University, Rohtak and had not studied Sanskrit as a subject in any of the three years of the graduation course. After completing the graduation course in the year 2003, she cleared three papers in Sanskrit language in an examination conducted by Maharishi Dayanand University and obtained a degree B.A.(Additional) pertaining to Sanskrit subject in the year 2004 i.e. after studying Sanskrit for only one year. In respect of which B.A.(Additional) Degree the University armed her with a document as under:-

"Point No.1.1. Clause 19 of the ordinance of B.A./B.SC./B.COM provides as under:

i) A candidate who has passed B.A. three years course of this university may appear in additional subject (s) prescribed for the course in the subsequent examination except the subject (s) with which he/she has already passed the course.

Point 2 Sanskrit (Elective) subject for regular as well as distance mode and additional subject (Sanskrit) in B.A. is one and same and equal in all subject. (Emphasis Supplied)

xxxxxx

"45. Respondent Snehlata had applied for being appointed to the post of T.G.T. (Sanskrit). It is an admitted fact that she has not studied Sanskrit subject in any year of the Graduation course undertaken by her, but has subsequently appeared in an examination conducted by the University and cleared three papers pertaining to Sanskrit subject after studying the same in one year.

"46. The corrigendum dated March 30, 2010 prescribes that 'the candidate should have studied the subject concerned as mentioned in the RRs in all parts/years of graduation. The elective word may also include main subject as practiced in different universities'. We emphasize the word 'studied' occurring in the corrigendum dated March 30, 2010 Respondent Snehlata who has not studied concerned subject i.e. Sanskrit subject in the graduation course undertaken by her is clearly not eligible for appointment to the post of T.G.T. (Sanskrit). After clearing the Graduation course and obtaining a degree what she has done is to have studied some kind of a course designed by the University and has learnt Sanskrit. The degree which she has in Graduation does not pertain to the subject Sanskrit."

13. Upon a careful consideration of the facts of these petitions, in the light of the decision of this court in **Sachin Gupta** (supra), the principle laid-down, which would squarely apply to this case, we are

of the view that the essence of the matter is that for being qualified for the post of Trained Graduate Teacher in a particular subject, a candidate must hold at least a Bachelor's Degree in that subject, having studied that particular subject as the main subject in the course of obtaining such degree. Having a Bachelor's Degree in a subject that is studied by way of an additional subject is not adequate, inasmuch as evidently a Bachelor's Degree in a subject taken as an additional subject would lack the width and depth of study that would be necessary to qualify as a Trained Graduate Teacher in that subject. To us this appears to be elementary, in the sense that if the candidate lacks in-depth knowledge of a subject, he would hardly be qualified to teach it as a Trained Graduate Teacher.

14. In the above view of the matter, we see no merit in the contentions raised by the petitioners. We accordingly see no reason to entertain the present petitions; which are accordingly dismissed. In view of the dismissal of the writ petitions, pending applications, if any, are also dismissed.

G.S.SISTANI, J.

ANUP JAIRAM BHAMBHANI, J.

JANUARY 09, 2020/uj