

\$~Suppl.-18

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

% **Date of Decision: 15th February, 2021**

+ W.P. (C) 1986/2021
SUBHASHREE DASHPetitioner

Through: Ms. Uma Devi, Advocate.

Versus

UNION OF INDIA & ORS.Respondents

Through: Mr. N.K. Srivastava, Sr. Panel
Counsel for R-1/UOI.
Ms. Rashmi Bansal, Sr. Advocate
with Mr. Rajat Bhatia & Ms. Nidhi
Sahay, Advocates for R-2.
Mr. Akshay Chandra & Mr. Ravjyot
Singh, Advocates for R-3.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MS. JUSTICE ASHA MENON

J U D G M E N T

ASHA MENON, J (Oral):

CM APPL. 5793/2021

1. Exemption is allowed, subject to just exceptions.
2. The application stands disposed of.

W.P. (C) 1986/2021, CM APPL. 5792/2021

3. The present petition has been filed by a candidate in the recruitment

for teachers by respondent No.2/Kendriya Vidyalaya Sangathan (KVS) pursuant to the notification/advertisement dated 14.08.2018 issued by them. She is aggrieved by the dismissal of her O.A. by the Central Administrative Tribunal ('Tribunal' in short) vide its order dated 03.09.2020.

4. The petitioner having applied for the post of TGT (Mathematics) in pursuance of the aforesaid notification of respondent No.2/KVS, wrote the II-Tier exam and secured the 83rd position under the General Category. However when she appeared for the interview scheduled for 14.02.2019, the officials of respondent No.2/KVS did not allow her to proceed her to attend the interview on the ground that she did not meet the essential eligibility criteria as per the advertisement.

5. Aggrieved, she filed the O.A. 685/2019 before the Tribunal seeking direction to respondent No.2/KVS to consider her for appointment on the basis of the rank secured by her. The Tribunal vide the impugned order dated 03.09.2020 considered the qualifications as advertised and concluded as under :

"8. A perusal of the same discloses that the amount of clarity, which the respondents had, as regards the post. They did not leave any scope for either for interpretation or for equivalence. What is mentioned in the advertisement is a full fledged study for three years in Mathematics, along with two other subjects mainly in Physical Sciences. Admittedly the applicant did not study that course. She did B.Tech. It is not even demonstrated that the curriculum of the B.Tech comprises of three years regular study in Mathematics and in two of the five subjects mentioned in the advertisement. The occasional study of the Mathematics in one or two semesters that too, in the limited context of an Engineering Degree, can, by no stretch of imagination, be treated as a Bachelor Degree in Mathematics, nor it can lead to Bachelor Degree in Mathematics".

6. Aggrieved, the present writ petition has been filed.
7. Learned counsel for the petitioner Ms. Uma Devi has primarily contended that respondent No.2/ KVS had accepted her application form when she had filled in her educational qualification under the head of 'others' and having so accepted her application, had permitted her to write the II-Tier exam. Therefore, the respondent No.2/KVS could not now debar her from appearing in the interview and being considered for selection.
8. It is her further contention that the National Council for Teacher Education (NCTE) had itself relaxed the norms for admission to the B.Ed. course in the year 2015 permitting B.Tech graduates to pursue two years B.Ed. course. The learned counsel contended that once the NCTE had allowed the B.Tech graduates to obtain B.Ed. degree, respondent No.2/KVS had no discretion left in the matter and had to consider B.Tech graduates also for the TGT (Mathematics) post. She further argued that the Engineering graduates underwent the same curriculum in the B.Ed. course for Mathematics and Physical Science. Since respondent No.2/KVS had prescribed passing of the Central Teacher Eligibility Test (CTET) Paper-II in Mathematics and Science as necessary to apply for the TGT (Mathematics) posts in respondent No.2/KVS and the petitioner having acquired such eligibility, respondent No.2/KVS could not exclude her from consideration for the recruitment to the post of TGT (Mathematics).
9. It is on the basis of these arguments that the learned counsel for the petitioner submitted that the Tribunal had misdirected itself. She has submitted that the same be set aside and the petitioner be allowed to appear for the interview.

10. The learned counsel for the petitioner has not produced any binding rule to the effect that the qualifications prescribed by the NCTE to gain entry into the B.Ed. Course had to be adopted by all organisations/institutions/governments for post B.Ed. recruitment. The argument of the learned counsel was only that as several State Governments had accepted B.Tech with B.Ed. as sufficient qualification to teach Mathematics in schools, the insistence of respondent No.2/KVS for a degree in B.Sc. (Mathematics) and study of Mathematics in each year was unreasonable.

11. The issue before us appears to be one of standards of education in KVS schools. Where the object is to set higher standards for eligibility, there can never be a cause for concern, leave alone interference by Courts. But even if standards were being lowered, the Courts would still be reluctant to interfere, since what standards a particular organisation or institution wishes to prescribe for itself would be in its discretion. Usually, challenges are made by prospective candidates to eligibility criteria prescribed for entry into the portals of higher education. But even in such cases, the Courts have always been shy of substituting their views on such eligibility criteria, for fear of diluting the standards of academic excellence prescribed by the academics who are experts in the field.

12. No doubt, the present matter is one where the standards have been prescribed for its teachers by the respondent No.2/ KVS. The respondent No.2/KVS is an expert body prescribing and maintaining the standards of education in the KVS schools across the country. They are well within their rights to attract the best and so lay down higher eligibility criteria, as compared to other schools, for selection as Teachers in their schools. That is

why they spelt out their requirements very clearly leaving no scope for interpretation, as rightly observed by the Tribunal. This desire for recruiting the best cannot be viewed as a fault, rather it must be commended. The respondent No.2/KVS is only seeking to ensure that their teachers have in-depth knowledge in the subject to be able to impart a good understanding and knowledge of Mathematics to the students who attend the Kendriya Vidyalayas.

13. In the advertisement, it has been clearly provided as follows :

"C. For the post of TGT (Maths) :

- 1. The candidate should have studied Maths in all the years of graduation with any two subjects out of Physics, Chemistry, Electronics, Computer Science, Statistics.*
- 2. In case of Honours Degree in Maths, the candidate should have studied Maths in all the years of graduation with atleast 50% marks in aggregate and any of the two subjects indicated in point No.1 above with atleast 50% marks in each subject at graduation, level and also atleast 50% marks in graduation.*
- 3. BA (Hons.) in Maths and B.Sc. (Hons.) in any subject other than Maths are not eligible for the post of TGT (Maths)."*

14. It may be noticed that even the B.A. Hons.(Maths) has not been found to be a sufficient qualification to be eligible for the post of TGT (Maths). To take it to the next level of B.Tech, then, is not possible. What is essential for the post is that the candidates should have studied Mathematics in all the years of graduation and to have obtained at least 50% marks in the aggregate along with two other science subjects as specified. The passing of the CTET and the B.Ed. degree with proficiency of teaching in Hindi and English medium are no doubt essential qualifications, but the "Important Instructions

to the Candidates for the post of TGT" clearly specifies that for those who are applying for the post of TGT (Mathematics) it was necessary that they should have studied Mathematics in all the years of their graduation.

15. It is not the case of the petitioner that she had studied Mathematics for three years during graduation and it is not so pleaded. Her case is that NCTE allowed B.Tech graduates to join the B.Ed. course by relaxing the eligibility conditions. That may be so. The NCTE can only modify and change, relax or make stringent, the eligibility qualifications to apply for the course of B.Ed. Those are their norms and standards. They have not prescribed a universal standard for employment of teachers, as they are concerned with a stage prior to employment, namely, the acquisition of the educational qualifications for teaching. Therefore, the petitioner cannot seek the application of those eligibility criteria to the present recruitment process by the respondent No.2/KVS.

16. As to the contention that since respondent No.2/KVS had allowed her to sit for the exam despite her having applied under the head of "others", the principle of *promissory estoppel* is not attracted in such matters. Moreover, documents are usually checked at the time of interview to verify whether the applicant has correctly disclosed all facts in the application and has also got the required qualifications for appointment. The petitioner was found wanting in the qualification required, which she seems to have willfully sought to camouflage by putting her educational qualifications under the head of "others". Qualifications placed under "others" cannot be so disparate and far removed from the express educational requirements duly notified in the advertisement.

17. As we are ourselves loathe to tinker with eligibility criteria that would

adversely affect the standard of education imparted in schools of the respondent No.2/KVS, we are unable to find any error in the decision of the Tribunal. The petition is devoid of merit and is accordingly dismissed along with the pending application.

ASHA MENON, J

MANMOHAN, J

FEBRUARY 15, 2021

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