

\$~11

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

% Judgment delivered on: 19.10.2022

+ W.P.(C) 9736/2018 & CM APPL. 7138/2020

GOVT. OF NCT DELHI AND ORS. Petitioners

versus

VIRENDER KUMAR CHOUDHARYRespondent

Advocates who appeared in this case:

For the Petitioner: Mrs. Avnish Ahlawat, Standing Counsel, GNCTD with Ms. Laavanya Kaushik and Ms. Aliza Alam, Advocates.

For the Respondent: Mr. A.K.Trivedi and Mr. Naveen Kumar, Advocates.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order dated 21.12.2017 whereby the original application filed by the respondent seeking quashing of order dated 01.08.2016 passed by the petitioner cancelling the candidature of the respondent for the post of TGT (Natural Science) has been allowed.

2. The respondent had applied for the post of TGT (Natural Science) under post code 10/13 under the unreserved category pursuant to an advertisement No.01/13.

3. Petitioner appeared in the written examination and scored high marks and fell within the consideration zone under the unreserved category and was thereafter called for verification of the documents. One of the eligibility conditions for consideration for the relevant post was that the candidate should have qualified the Central Teacher Eligibility Test (CTET) conducted by CBSE.

4. At the time of scrutiny of documents, it was found that respondent had scored 83 marks in CTET examination and was declared qualified under the OBC category. Respondent had qualified CTET examination by application of relaxation which was then available under the OBC category of 5% in the qualifying marks. It is an admitted position that respondent had scored marks in CTET less than the qualifying marks prescribed for the unreserved category.

5. On petitioners finding that the respondent had qualified CTET examination by availing the benefit of relaxation under the OBC category, the candidature of the respondent was cancelled as respondent had not qualified under the unreserved category and had applied under the unreserved category.

6. Learned counsel for the petitioner submits that the respondent having qualified the CTET examination availing the relaxation under the OBC category was ineligible to now apply under the unreserved category. Learned counsel further submits that had respondent not availed of the relaxation available for the OBC category for the CTET

Examination, respondent would not have satisfied the eligibility condition and would have been disqualified for consideration for the subject post.

7. It is an admitted position that respondent had availed of the relaxation while obtaining the qualification for CTET. In the absence of the said qualifications, respondent would not be eligible for consideration for the said post. Once the respondent has obtained the eligibility qualification by availing the relaxation under the OBC category, the respondent could not have applied for being considered under the unreserved category.

8. Reference may be had to the judgment of the Supreme Court in *Govt. (NCT of Delhi) & Ors vs Pradeep Kumar & Ors, (2019) 10 SCC 120* wherein the Supreme Court has held as under:-

“It is important to keep in mind that the respondents are competing for general category vacancies. All others in this group have obtained their CTET eligibility qualification, securing the normal pass marks without availing any relaxation of pass norms. On the other hand, the respondents despite their lesser marks in the CTET examination, could qualify only because they availed the relaxation benefits as OBC category examinees. Their eligibility qualification is secured under relaxed norms meant for OBC category and therefore we do not think it is proper to consider them to be eligible for the general category vacancies and contention to the contrary is unacceptable.”

9. The Supreme Court has in *Pradeep Kumar (Supra)* held that the candidates who could qualify only because they availed the relaxation

benefits of the OBC category examinees and since their eligibility qualification was secured under relaxed norms meant for OBC category it would not be proper to consider them to be eligible for the general category vacancies.

10. The ratio of the judgment of the Supreme Court in *Pradeep Kumar (Supra)* squarely applies to the facts of the present case.

11. Accordingly, the respondent who had secured the eligibility qualification under the relaxed norms meant for OBC category, would be ineligible for consideration for the general category vacancies.

12. In that view of the matter, the impugned order of the Tribunal dated 21.12.2017 quashing the rejection of the candidature of the respondent is not sustainable.

13. Accordingly, the impugned order dated 21.12.2017 is set aside.

14. The petition is allowed in the above terms.

SANJEEV SACHDEVA, J.

TUSHAR RAO GEDELA, J.

OCTOBER 19, 2022

rk