



2025:DHC:11108-DB



\$~22

* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 08.12.2025***+ W.P.(C) 9543/2023 & CM APPL. 36512/2023
DSSSB AND ANR

.....Petitioners

Through: Mrs.Avnish Ahlawat, SC for
GNCTD (Services) with
Mr.Nitesh Kumar Singh,
Ms.Aliza Alam and
Mr.Mohnish Sehrawat, Advs.

versus

MS UPASANA SINGH AND ANR

.....Respondents

Through: Mr.Rajeev Saxena, Sr. Adv.
with Ms.Megha Saxena,
Mr.Mahendra Singh &
Ms.Shreya Bhatnagar, Advs.
for R-1.
Dr.Divya Swamy, SC for MCD
with Mr.Yagyawalkya Singh,
Ms.Akriti Singh & Ms.Pragya
Patel, Advs. for R-2.**CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE MADHU JAIN****NAVIN CHAWLA, J. (ORAL)**

1. This petition has been filed challenging the Order dated 20.02.2023 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the "Tribunal") in O.A. 1072/2019, titled *Ms. Upasana Singh v. Delhi Subordinate Services Selection Board & Ors.*, allowing the O.A. filed by the respondent no.1 herein with the following directions:-



“5.2 In view of the above discussion, we find merit in the OA and the same stands allowed. The impugned Order/Result Notice No.773 dated 28.03.2019 is quashed and set aside insofar as it relates to the applicant. The respondents are directed to process the candidature of the applicant further and appoint her in case she is otherwise eligible, except the qualification, which is the subject matter of this OA. If she is so appointed, she would be entitled to consequential benefits notionally pertaining to pay and seniority commensurate with her position in the merit, vis-a-vis her batch-mates.”

2. The limited issue involved in adjudication of the present petition is whether the respondent no.1 was qualified for the post of Teacher (Primary) under Post Code 16/17, advertised by the petitioners under Advertisement No. 02/2017. The said advertisement prescribed the following as the essential educational qualification for the post of Teacher (Primary):-

- “(i) Senior Secondary (10+2) or Intermediate or its equivalent from a recognized board / institution.*
- (ii) Two year's Diploma / Certificate Course / in Elementary Teacher education Course Junior Basic Training or equivalent or bachelor of elementary education from a recognized institution.*
- (iii) Must have passed Hindi as a subject at Secondary level.*
- (iv) Must have passed English as a subject at secondary or senior secondary level.*
- (v) Candidates must have qualified CTET.”*

(Emphasis supplied)

3. The respondent no.1, though had been declared successful in the recruitment process, was disqualified from the same in the result



2025:DHC:11108-DB



dated 28.03.2019 issued by the petitioners, for not having passed Hindi at Secondary level.

4. The respondent no.1, being aggrieved of the same, filed the above O.A. challenging the same.

5. The learned Tribunal, as noted hereinabove, has allowed the said O.A.. The learned Tribunal has held that the respondent no.1 had studied Hindi in the 12th standard, that is, Senior Secondary level, which is a higher qualification than the one prescribed in the recruitment rules and the advertisement, that is, of having studied Hindi in the Secondary level, therefore, she was eligible for the said post.

6. The learned counsel for the respondent no.1 submits that the respondent no.1 has, in fact, completed her Bachelor of Elementary Education (B.El.Ed.) in Hindi from the Lady Shri Ram College, and has also cleared her CTET, which had two papers on Hindi, being Hindi-I and Hindi-II. By placing reliance on the judgment of this Court in *Govt. of NCT of Delhi & Ors. v. Sachin Gupta*, 2013 SCC OnLine Del 3045, he submits that in similar circumstances, this Court has held the respondent therein to be eligible for appointment. He submits that the said judgment was not challenged and has attained finality.

7. On the other hand, the learned counsel for the petitioners, while reiterating that the respondent no.1 did not possess the essential educational qualification of having passed Hindi as a subject at Secondary level, submits that merely because the respondent no.1 had passed the said subject at the Senior Secondary level, or even



undertaken B.El.Ed. in Hindi, or CTET with two papers of Hindi, would not make her eligible for the said post. He places reliance on the judgment of this Court in *Farzana v. Govt. of NCT of Delhi*, 2008:DHC:73-DB, in support of his submission.

8. We have considered the submissions made by the learned counsels for the parties.

9. The educational qualification required in the advertisement is very specific as far as the requirement of a candidate having passed Hindi as a subject at Secondary level is concerned. We may herein itself note that the advertisement or the recruitment rules in this regard were not under challenge before the learned Tribunal. In any case, the respondent no.1 having participated in the recruitment process, could not have challenged the requirement of the advertisement at a later stage. In this regard, we draw support from the Judgment of Supreme Court in *State of U.P. v. Karunesh Kumar & Ors.*, 2022 SCC OnLine SC 1706.

10. The only issue, therefore, to be determined thereafter is whether the respondent no.1 having passed Hindi at the Senior Secondary Level or having a B.El.Ed. in Hindi or having passed two subjects of Hindi in the CTET, can be said to meet the qualification prescribed in the advertisement and the recruitment rules.

11. In this regard, we are faced with two judgments which appear to be contradicting each other. In *Farzana* (supra), a Division Bench of this Court in similar facts, considering the study of Hindi at Secondary Level to be an essential qualification for the post, and while considering the claim of the petitioner therein of having qualified as



Bachelor of Commerce (Pass) in Hindi language as a subject, held that possessing a higher qualification than the one prescribed for the post may not necessarily be treated as fulfilling the lower qualification prescribed for the post. It further held that a recruitment to public service should be made strictly in accordance with the terms of the advertisement and the recruitment rules. The Court held as under:-

“20. It is clear that in the present case we are concerned with the recruitment to the post of Primary Teachers in MCD. These teachers are required to teach students at primary level i.e. up to Standard V. These small children are to be given basic education in Hindi language. Rather, they are to be initiated into this language from scratch, namely, from alphabets and then into the basic grammar, for which purpose the teacher is required to be equipped in a specific mold. It is the case of the MCD that keeping this in mind the prescription of studying Hindi language at secondary level is provided in the recruitment rules. This is explained in the counter affidavit in rather greater details, as would be evident from the following averments contained therein :-

“12. It is submitted that the teachers being required to teach children at the primary level in Delhi there is nothing irrational in the requirement of passing Hindi at the secondary level being the popularly understood local language as well as the medium of instruction. At the Primary Level one teacher is required to teach all the classes from I to V which includes imparting education in the language subject of Hindi as well which is prescribed for all the five years. The focus of language education at this stage is to provide the building blocks to lay a strong foundation on which the child can build in the future.



While teaching Hindi to students of primary classes it is necessary that the teacher be himself aware of and well conversant with the basic grammatical skills of the language such as alphabets, word formation, spelling and recognition of writing symbols, sentence formation and correction, singular-plural, masculine-feminine gender, present-past-future tenses, synonyms, antonyms, usage of phrases, verbs, nouns, adjectives etc. There is an appreciable difference in the purpose, curriculum and manner in which the language course of Hindi is structured at the secondary, senior secondary and higher level. Even though a person may possess valuable written or spoken skills of the language which he may acquire at a higher level yet absence of knowledge of the basic and rudimentary building blocks of the same may prove to be detrimental while teaching small children the basic alphabets of the same language in a simplistic yet interesting manner. Superior knowledge of scriptures or the ability to write reports, features complex essays or translate complex passages may not be a adequate substitute for the basic knowledge of grammar and the skill set which is exclusive to the secondary level and essential for teaching the same to the children at the primary level. Copies of the syllabus of Hindi as it is taught at the secondary level and senior secondary level along with the paper schematic and syllabus for the B Com (Pass) level are collectively annexed herewith as Annexure 3.

13. A perusal of the same shows that it is only at the Class X that the basic grammatical skills of the language which constitute its essential building blocks are taught and tested. Focus at the higher levels is on study of poetry, scriptures, different forms of the language as it stood in different times and practical use of the



language etc. and it cannot be simplistically concluded by an empirical/comparative evaluation that study of Hindi at BCom (Pass) is greater than/better than or a substitute for study of Hindi at the secondary level. Neither can it be assumed that a person who has studied Hindi at the BCom level would be equipped with the skill set of Hindi prescribed at the secondary level (the skill sets, curriculum, methodology of study, importance attached to the study of the subject – all being different) and such a presumption in the absence of an analysis of the course contents, teaching methodology etc. would not be correct. It is only in case of courses such as M Tech which one is allowed to do only after B Tech that M Tech can be considered higher than B Tech. In the case of Hindi language it is possible for a person to have not studied the same at the secondary level but only at the senior secondary levels or at one of these levels and a higher level. Even across various levels the curriculum is different depending upon whether Hindi is studied as a compulsory or as an optional subject and at the higher levels it is different depending also upon whether Hindi is studied at the secondary level or the senior secondary level. As mentioned earlier a person having working/functional knowledge of Hindi at the Higher Level may not be equipped with the knowledge of the grammatical skills and the manner in which they are taught to the children at the secondary level. It is respectfully submitted that whether Hindi at secondary level is suitable for teaching students at the primary level or Hindi at higher level is suitable for the said purpose, whether knowledge of Hindi studied at Higher level is greater than or a substitute for Hindi studied at the secondary level are all technical questions the answers of which best ought to be left to technical/specialist



bodies. Merely because a candidate has studied Hindi at a B Com level as in the instant case does not imply that he ipso facto fulfills the eligibility criterion of having passed Hindi at the secondary level as it is possible to study Hindi even at the higher level without passing the same at the secondary level. In the instant case it is an admitted position that the Petitioner did not pass Hindi at the secondary level. It is stated that the Petitioner has qualified the Hindi language as a subject while passing the B Com (Pass) course. Though the marksheets attached with the Petition are unclear it is submitted that the curriculum of Hindi prescribed at the B Com (Pass) level is completely different from that at the secondary level. The B Com (Pass) course being essentially a commerce course the thrust in papers related to that subject and the study of a language is required only as one of the optional subjects that too not for the duration of the entire course as part of study of one of the modern Indian languages. In view of the different skill set acquired by the candidates at different levels and keeping in mind the fact that the small children need to be taught the basic skills rather than scriptures the prescription of study of Hindi at a secondary level has a direct nexus with the objective sought to be achieved and therefore the said qualification cannot be said to be arbitrary.”

21. *We find sufficient justification/rational in providing for the aforesaid qualifying course at secondary level for the post in question. It is neither arbitrary nor discriminatory and specific objective is sought to be achieved thereby for which sufficient justification/rational is given by the MCD. Once the respondents are able to satisfy such a rationality, further probe into a policy decision like this in prescribing these*



qualifications in the recruitment rules, which are of statutory nature, is not permitted as per the dictum noticed in various judgments in the foregoing paragraphs.”

12. In **Sachin Gupta** (supra), on the other hand, another Division Bench of this Court, by placing reliance on the earlier judgment of this Court in **Manju Pal v. Govt. of National Capital Territory of Delhi & Anr.**, 2001 SCC OnLine Del 996, held that a person having studied Hindi at graduate level would certainly be entitled to apply for the post. The Court had held that there was no logic or rationale in contending that a person with higher qualification would not be eligible. The Court in **Sachin Gupta** (supra), therefore, held the respondent therein to be eligible for making application to the post concerned, though such candidate had not studied the concerned subject at the graduate level, but at post-graduate level.

13. The attention of the Court was, however, not drawn to the later Judgment of this Court in **Farzana** (supra), wherein this Court specifically went into the issue of requirement of the candidate to have studied Hindi as a subject at the Secondary Level. The Court had also considered the Judgment of this Court in **Manju Pal** (supra), however, held that as the MCD had been able to satisfy the rationality of the said condition, the same was necessary to be followed. To that extent, the judgment in **Sachin Gupta** (supra) would be *per incuriam*.

14. We, even otherwise, tend to agree with the judgment of this Court in **Farzana** (supra). The advertisement having specifically required the candidate to have passed Hindi as a subject at Secondary level, this Court normally would not even second guess the reason for



such requirement. The advertisement has required higher education degrees as well, that is, senior secondary/intermediate; two-years diploma/certificate course; English as a subject at secondary or senior secondary level; and CTET. In spite of this, as far as Hindi subject is concerned, it requires the candidate to study it at Secondary level. As noted hereinabove, the advertisement or the recruitment rules were not in challenge before the learned Tribunal. The learned Tribunal, therefore, merely because the respondent no.1 claims to have a more superior qualification than the one prescribed, could not have re-written the recruitment rules or the advertisement.

15. The Supreme Court in *NDMC v. Kavinder & Ors.*, (2021) 11 SCC 353; and this Court in *State (NCT of Delhi) & Ors. v. Seema Kumari*, 2023 SCC OnLine Del 4987, the Special Leave Petition against which, being SLP(C) 22275/2023, was dismissed, has held that merely possessing a higher qualification would not make a candidate eligible for the post. In fact, to accept the same would be discriminatory *vis-a-vis* those who did not even apply for the post seeing the specific essential qualification prescribed in the advertisement.

16. In view of the above, we are unable to sustain the Impugned Order passed by the learned Tribunal. The same is, accordingly, set aside. The petition is allowed in the above terms. The pending application also stands disposed of.

NAVIN CHAWLA, J

MADHU JAIN, J

DECEMBER 8, 2025/rv/Vs