

(2006) 11 DEL CK 0095

In the Delhi High Court

Case No : LPA 1109 of 2005 and CM 7692 of 2005

Chandra Mohan Gururani

APPELLANT

Vs

The Director of Education and Others

RESPONDENT

Date of Decision : 10-11-2006

Acts Referred:

Delhi School Education Rules, 1973 — Rule 97

Citation : (2007) 137 DLT 323

Hon'ble Judges : Mukul Mudgal, J;J.P. Singh, J

Bench : Division Bench

Advocate : R. K. Kapoor and Govind, for the Appellant; Latika Chaudhary, for the Respondent

Judgement

Mukul Mudgal, J.—This appeal challenges the judgment dated 17th May 2005 passed by the learned Single Judge. The facts of the case are as follows:

(a) It is pleaded that in the year 1999 the appellant being senior most lecturer/PGT in the school was entitled to be promoted as Vice Principal but still he was not promoted. He Therefore, made a representation on 12th July 1999 through proper channel explaining that he had completed 28 years of service and was the senior most for the post of Vice Principal but in vain. It is submitted that in the absence of Principal he was even made to officiate as the Principal. The school Principal also wrote to the authorities about the outstanding performance of the appellant. It is alleged that a number of PGTs have been appointed as Vice Principals and even as Principals despite not holding a degree of B.Ed., in government as well as aided schools but the appellant was being given step motherly treatment and was having discriminated against. The Education Officer had written a letter dated 28th January 2005 conveying to the appellant that he was not eligible for the post of Vice Principal since he was not holding a B.Ed. Degree. The said letter was challenged in the writ petition but the writ petition was dismissed. Hence this Letters Patent Appeal.

2. The issue involved in the present appeal is whether the appellant in the

absence of qualification of B.Ed. was entitled to be considered for the post of Vice Principal. The learned Single Judge in his judgment held that the appellant could be senior most teacher but he was not having the B.Ed. qualification. In such a situation, he cannot even be considered by the Departmental Promotion Committee (DPC). The learned Counsel for the appellant Mr. R.K. Kapoor has relied on the provisions of Rule 97 of the Delhi School Education Rule, 1973 which reads as follows:

97. Relaxation to be made with the approval of the Director - Where the relaxation of any essential qualification for the recruitment of any employee is recommended by the appropriate selection committee, the managing committee of the school shall not give effect to such recommendation unless such recommendation has been previously approved by the Director.

3. The learned Counsel for the respondent Ms. Latika Chaudhary has vehemently submitted that the appellant had already appeared during the selection for the post of Vice Principal in the year 1988 about a decade ago and was not selected on the ground that he did not fulfill the requisite qualification and accordingly, he can not to be permitted even to go before DPC.

4. Having perused the contents of Rule 97, we are of the view that the very purpose of relaxation will be defeated if the plea of the respondent is accepted because even if the DPC, i.e., the selection Committee selects and recommends the appellant and Managing Committee wants to act on such a recommendation, prior approval of the Director will be required. No appointment can be given effect to unless the recommendation giving relaxation is approved by the Director.? In this view of the matter, we are of the opinion that the learned Single Judge erred in holding that even DPC, i.e., the Selection Committee could not consider the candidature of the appellant. Accordingly, the appeal is allowed, the order dated 17th May 2005 of the learned Single Judge is set aside. The appellant's case will now be considered by the DPC/Selection Committee appropriate decision be taken and thereafter steps be taken in accordance with Rule 97 of the Delhi School Education Rule, 1973 not later than 31st December 2006. We express no opinion on other pleas in this appeal.?

5. With the above directions, the appeal stands disposed of.