

(2002) 03 DEL CK 0155
In the Delhi High Court
Case No : C.W.P. No. 4338 of 2001

Director of Education and Another

APPELLANT

Vs

Rattan Lal

RESPONDENT

Date of Decision : 22-03-2002

Acts Referred:

Citation : (2002) 03 DEL CK 0155

Hon'ble Judges : S.B. Sinha, C.J;A.K. Sikri, J

Bench : Division Bench

Advocate : Avnish Ahlawat, for the Appellant; KNR Pillay, for the Respondent

Final Decision : Dismissed

Judgement

S.B. Sinha, C.J.—The sole question, which arises for consideration in this writ petition, which is directed against a judgment and order dated 12.12.2000 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as "the Tribunal") in O.A. No. 1138 OF 2000, is as to the applicability of the Rules while considering the case of the petitioner.

2. The petitioner was holding the post of TGT in Sanskrit w.e.f. 29.01.1982. He acquired a Post Graduate Degree in English Literature in February, 1994. He also possesses B.Ed. and M.Ed. Degrees.

3. A tentative eligibility list for promotion to the post of PGT in different subjects for the academic year 1994-95 was prepared in response to the petitioner's letter dated 28.02.1994 wherein the names of the teachers, who had acquired eligibility during the course of the previous year, i.e., such teachers, who had acquired necessary educational qualifications on or before 31.12.1993 and had put in 5 years" regular service as on that date, were included.

4. Teachers whose names are included in the said list were considered for promotion. The name of respondent did not find place therein. The contention of the respondent herein before the learned Tribunal was that whereas non-

language TGTs, i.e. TGT in Mathematics, Science, Social Science, Commerce, etc. upon acquiring PG Degree in English were considered for promotion to the said post, the TGTs in Hindi, Sanskrit, Urdu etc. acquiring PG Degrees in English were not considered eligible Therefore and thus a hostile discrimination is made in relation thereto.

5. The contention of the petitioners herein before the learned Tribunal as also before us was that as per the Recruitment Rules, feeder cadre for the promotion to the post of Lecturer PGT is TGT/LTs and equivalent miscellaneous category like PET, Music, Drawing, etc.

6. Some grouping of subjects of PGTs was made and promotion was required to be made from selective feeder cadre teachers, e.g. TGT (Language) would be considered for promotion to the post of PGT (Hindi, Sanskrit, Pujabi, Urdu, Persian, etc.); and likewise for PGT (English) only TGT (General) were considered to be eligible for promotion.

7. The subjects covered under TGT (General) were Natural Science Mathematics, English and Social Science and the subjects covered under TGT (Language) were Hindi, Punjabi, Sanskrit, urdu, Persian, etc.

8. The feeder cadre of PGT (English), according to the petitioners, being TGT (General), he was not eligible to become PGT (English).

9. In terms of the Rules, which were notified on 10.07.1975, whereby feeder category of TGTs were divided into two groups-TGTs in languages other than English would form one group, whereas TGTs in Science, Commerce Agriculture, General (including Social Science and Geography) and TGT (English) would form another.

10. The said Rules were amended on 26.02.1996 in terms whereof indisputably the respondents were eligible for consideration for promotion to the post of PGT. However, status-quo was brought into force by amending the rules again on 04.11.1999 in terms whereof the respondent became ineligible for consideration for promotion.

11. According to the respondent herein, the said Rule was irrational inasmuch as TGTs who possess a Graduation Degree in Agricultural and who did not have to study English as a subject beyond matriculation ,even if he passes MA in English, he becomes a PGT in English while a TGT in Modern Indian Languages like Sanskrit, etc. who had to take English as a subject at the Graduation Level and who passes MA in English, would not be entitled therefore.

12. In the instant case, admittedly, applications had been called for in April, 1999. Vacancies also existed prior to coming into force the new Rules.

13. It is also not in dispute that if the Rules of 26.02.1996 are given effect to, the respondent would have been considered for promotion.

14. Relying upon its earlier decision in *Shri Ram Kishan Rohilla v. Government of*

N.C.T. of Delhi and Anr. passed in O.A. No. 2658 of 1999 on 09-08-2000, the Tribunal held that the respondent was entitled to the prayers made in the said original application.

15. Ms. Avnish Ahalwat, the learned counsel appearing on behalf of the petitioners, however, would submit that in the instant case, the new Rules, which came into force on 04.11.1999, shall apply. In support of the said contention, strong reliance has been placed on Dr. Ramulu and another, etc. Vs. Dr. S. Suryaprakash Rao and others, .

16. Mr. KNR Pillay, the learned counsel appearing on behalf of the respondents, on the other hand, had relied on a decision of the Tribunal in Shri Ram Kishan Rohilla's case (Supra) .

17. Having heard the learned counsel appearing for the parties, we are of the opinion that the impugned judgment cannot be faulted.

18. It is now a well-settled principle of law that in a case of this nature, the Rules which would be applicable would be the Rules which were in force as on the date when the vacancies were notified.

19. As indicated hereinbefore, in the instant case, the applications had been called for in April, 1999, thus there cannot be any difficulty whatsoever that the Rules, which were notified on 26.02.1996, in terms whereof the respondent was entitled to be considered for promotion to the post of PGT would apply. (See A.A. Calton Vs. Director of Education and Another, ; Kayastha Pathshala, Allahabad and Another Vs. Rajendra Prasad and Another, ; P. Murugesan and Others Vs. State of Tamil Nadu and Others, ; and State of Rajasthan Vs. R. Dayal and Others, .

20. In that view of the matter, the aforesaid decision of the Apex Court in Dr. K. Ramulu's case (Supra), upon which strong reliance has been placed by Ms. Avnish Ahalwat, would not be applicable in the facts and circumstances of this case. In that case, the State had taken a conscious decision not to fill up any pending vacancy unless the process, which had started on an administrative ground, is completed. In the meantime, the new Service Rules came into force. The contention before the Apex Court was that the cases of the petitioners should have been considered for promotion before the Rules came into force, but the Apex Court held that it is for the Government to take a decision as to whether the post should be filled up or not.

21. In the aforesaid case, the Apex Court referred to the decision of Y.V. Rangaiah and Others Vs. J. Sreenivasa Rao and Others, and noticed that the said decision has been followed in many cases, namely, P. Ganeshwar Rao and Others Vs. State of Andhra Pradesh and Others, ; P. Mahendran and others Vs. State of Karnataka and others, ; A.C.Calton's case (Supra); N.T. Bevin Katti, etc., Vs. Karnataka public Service Commission and others, ; and Ramesh Kumar Choudha and Others Vs. State of M.P. and Others, but held that none of the said decisions

were applicable in fact situation obtaining therein.

22. As exceptional circumstances, which was obtaining in Shri Ram Kishan Rohilla's case (Supra) is not obtaining herein, and as such the said decision has no application in the facts and circumstances of the present case.

23. For the reasons aforementioned, we are of the opinion that no case has been made out for interference with the impugned judgment. This writ petition is dismissed with costs, Advocate fee, which is quantified at Rs. 5,000/-.