
(2020) 08 CAT CK 0049

In the Central Administrative Tribunal

Case No : Original Application No. 1097 Of 2020, Miscellaneous Application No. 1350 Of 2020

Jayeshma. K & Others

APPELLANT

Vs

Joint Commissioner

RESPONDENT

Date of Decision : 20-08-2020

Acts Referred:

Citation : (2020) 08 CAT CK 0049

Hon'ble Judges : Pradeep Kumar, Member (A); R.N. Singh, Member (J)

Bench : Division Bench

Advocate : Yogesh Kumar Mahur, S. Rajappa

Final Decision : Dismissed

Judgement

Pradeep Kumar, Member (A)

1. The applicants, herein, were candidates for recruitment to the post of Primary Teacher against an advertisement issued by respondents, Kendriya Vidyalaya Sangathan (KVS) for the year 2012-13 and 2013-14 against the Post Code 51. As per the advertisement, the essential qualifications prescribed was

A) Senior Secondary School Certificate or 12th class Intermediate pass with minimum 50% marks and,

B) Pass in CTET conducted by CBSE as per guidelines of NCTE and,

C) Competence to Teach in Hindi and English.

The initial registration was to commence on 29.07.2013 and the last date was 12.9.2013. At this stage, it was not specified whether B.Ed. or any other such qualification is also needed.

2. Subsequent to the initial registration, the written exam was held. The short listed candidates, were required to fill up on-line, the details about their qualifications etc. At this stage, the respondents KVS also put a notice on

8.5.2014, on the same website where qualifications were to be uploaded, wherein it was specified that only those candidates, who are having the qualification of four year course leading to Bachelor in Elementary Education (B.El.Ed) or two year course leading to Diploma in Elementary Education (D.El.Ed), are qualified to apply against the said post.

3. Admittedly, the applicants were not having either of these two qualifications. Instead, they had the qualification of Bachelor in Education (B.Ed). However, the applicants filled up those forms. This gave an impression as if that they had the requisite qualification. Their candidature was taken to be correct on face value and was processed further accordingly.

4. At a subsequent stage, perhaps when interview and document verification was held, it came to light that the applicants do not have the prescribed qualification of B.El.Ed. or D.El.Ed., and instead, they were having B.Ed.

Even though they had appeared in the written test and interview by this time, their candidature were not processed any further and results were also not declared.

5. One such candidate approached CIC, seeking direction to declare the result. With directions by CIC, the result was declared on 1.9.2016. However appointment letters were still not issued.

Some similarly placed candidates, agitated the matter by filing OA No. 323/2015 in Ernakulam Bench (Devpriya GB vs. KVS), which was allowed on 10.09.2018. However, this judgement was not implemented by KVS. The petitioner, therein, preferred Contempt Petition No. 14 of 2019, which was closed on 12.6.2019, as the Tribunal's order was implemented and the petitioner was appointed.

Another similarly placed candidate Ms. Neha Sharma had also preferred OA No. 759/2014 before Jabalpur Bench, which was also allowed on 03.01.2020.

Yet another similarly placed candidate, Ms. Reena Tripathi had also preferred OA 869/2017 before Bangalore Bench of this Tribunal, which was also allowed on 19.03.2018. This judgement was challenged before Hon'ble High Court of Karnataka in WP No. 22522 of 2018. The Hon'ble Court vide their order Dt 28.5.2018, upheld the Tribunal's judgement.

6. The applicants, herein, plead that the same relief, as were granted to the Ms Reena Tripathi, DevPriya GB and Neha Sharma (Para 5 supra), should be extended to them also on account of parity.

7. Learned counsel for the applicant also pleaded that the respondents vide order Dt. 31.8.2016/1.9.2016 had also put up a notification that the cases of candidates with B.Ed. qualification, shall be decided depending upon the decisions for other similarly placed candidates, whose cases were sub-judice (Perhaps as per para 5 supra). This notification reads as under :

"As per direction of the Hon'ble Information Commissioner, Central Information

Commission, New Delhi dated 29.03.2016 in the case No. CIC/CC/A/2015/002869-SA of Mrs. Ruchi Pandey, a candidate for the post of PRT in KVS for the years 2012-13 and 2013-14, the final result of written examination and interview of those candidates who were declared ineligible due to not having required professional qualification as per Advertisement and Recruitment Rules of PRT has been uploaded on KVS website.

These ineligible candidates were having B.Ed. degree instead of B.El.Ed/JBT/D.Ed. The Competent Authority of KVS without prejudice had provisionally permitted these candidates having professional qualification of B.Ed. degree and qualified in CTET (Paper-I) examination conducted by CBSE in June, 2011 to appear in the interview, subject to clarification from NCTE in this matter. Accordingly NCTE vide letter dated 26 June, 2014 has clarified that candidates with B.Ed. degree are not eligible to be considered for appointment as PRT. As such, the case of candidates having professional qualification of B.Ed. will be decided only after the outcome of various pending court cases in the matter.

This disclaimer is being issued in view of Central Information Commission, New Delhi order dated 29.03.2016 aforesaid."

And now since, those agitations have resulted into relief, respondents need to act as per this notification and the applicants also need to be appointed.

8. Once, the instant applicants were not offered the appointment, they preferred the OA No. 286/2019 before the Ernakulam Bench, however, the same was withdrawn for want of jurisdiction. Thereafter, the applicants preferred the OA 1726/2019 before the Principal Bench. This was disposed of on 25.11.2019 at admission stage itself, with direction to the respondent KVS to pass a speaking order. These directions read as under :

"When the matter is taken up for hearing, counsel for applicants submits that this OA may be disposed of with a direction to the respondents to dispose of their representations dated 18.03.2019 and 19.03.2019 (Annexures A-6 & A-7 colly).

2. In view of the same, we are of the opinion that each of the applicants may submit comprehensive representations to the respondents within 15 days from the date of receipt of certified copy of this order and within two months, thereafter, respondents shall dispose of the same by passing a reasoned and speaking order. Accordingly, OA is disposed of. No order as to costs.

3. In view of above, all the pending MAs are also disposed of."

In follow up, the applicants made their detailed representation in December, 2019, which have since been rejected vide order Dt. 8/14.1.2020.

9. Feeling aggrieved at this rejection, the applicants have now preferred the instant OA. The applicants have pleaded for parity with some other similarly placed candidates, who were subsequently appointed (Para 5 supra). And they rely on the respective judgements.

10. Per contra, it was pleaded on behalf of Respondents that the applicants herein had initially misrepresented about their possessing the requisite qualification of B.El.Ed. or D.El.Ed., whereas they actually had B.Ed., at the stage when it was to be uploaded on to the site, despite availability of a clear notice Dt. 8.5.2014, at that very site, that the candidates need to have qualification of B.El.Ed. or D.El.Ed., which admittedly, the applicants did not have.

Had it been done, the candidature would not have been processed any further.

11. Respondents have also drawn attention to the Hon'ble High Court of Karnataka judgement Dt 28.5.2018, which is relied upon by applicants (Para 5 supra) wherein it was clearly specified that reliefs granted to the petitioners therein, cannot be quoted as a precedence. The operative part of this judgement reads as under :

"11. Undoubtedly, the respondent has been fighting for her appointment to the post since 2014, i.e., for the last four years. She has knocked both at the doors of the learned Tribunal, as well as at the doors of this Court. Yet, her hope for justice has been belied by the conduct of the petitioner. Considering these facts, the learned Tribunal, obviously, had no other option, but to positively direct the petitioner to appoint the respondent. Therefore, considering the peculiar facts of the case, the learned Tribunal was justified in issuing an absolute, and positive direction to the petitioner. Although generally the learned Tribunal would not be justified in issuing an emphatic direction for appointment, but the peculiar facts of the case left no option to the learned Tribunal, but to pass an absolute order.

Therefore, this Court is not inclined to interfere with the impugned order.

12. However, by abundant caution, it is hereby clarified that this order is being passed, keeping in mind the unique facts and circumstances of the case. Therefore, this order shall not form a precedent for future cases.

13. With these observations, this petition is, hereby, dismissed. The petitioner is directed to comply with this order within a period of two weeks."

It was pleaded that relied upon judgements are of no help to the applicants.

12. It was further brought out by the respondents that the guidelines in respect of the recruitment of primary teachers were issued by relevant Organisation namely NCTE, on 23.8.2010. As per these guidelines, the specified minimum qualification for the post in question, was B.El.Ed or D.El.Ed.

However for teaching class 1 to 5, these guidelines also provided that those primary teachers recruited up to 1.1.2012, could also have B.Ed., but they shall have to undergo a six month special training course in Elementary Education.

Since this recruitment was for period subsequent to 1.1.2012, qualification B.El.Ed or D.El.Ed, was specified in a notice Dt. 8.5.2014, put up on the same site where candidates were required to upload their qualifications in on-line mode. It was at this stage the applicants filled the details on-line,

misrepresenting their qualification (Para 3 supra).

In the context of this relaxation, the respondents on their part, did make a reference to NCTE, whether the candidates with B.Ed. qualifications, could still be recruited as Primary teacher in the said selection. However, NCTE vide their clarification Dt. 6.5.2014, advised that relaxation for candidates with B.Ed. qualification is not available beyond 1.1.2012.

It was thus pleaded that KVS cannot ignore this clarification by NCTE and the instant applicants could not be recruited for the said post.

13. Respondents also drew attention to a new notification No. 14, that has been subsequently issued for recruitment of the same post of Primary Teachers, wherein on-line registration was started on 24.8.2018 and the specified last date was 13.9.2018. This new selection is already underway.

It was thus brought out that no relief can now be granted to the present applicants in the instant OA, against the earlier advertisement for 2012-2013 and 2013-14. The OA is required to be dismissed.

14. Matter has been heard at length. Sh. Yogesh Kumar Mahur represented the applicants and Sri S. Rajappa represented the Respondents.

15. It is admitted that the relevant advertisement did not indicate whether the qualification needed is B.El.Ed., D.El.Ed. or B.Ed. Accordingly the candidates even without any of these qualifications, could initiate the on-line registration.

However, at the next stage when details were to be filled about qualification in the on-line mode, the web-site had a notification Dt. 8.5.2014, which clearly indicated that qualification needed is B.El.Ed. or D.El.Ed. Accordingly, only such candidates who had this qualification, could have filled the form to be considered further.

It is admitted by the applicants that they had the qualification of B.Ed. only. However, they still filled the On-Line form which created an impression that they had the requisite qualification of B.El.Ed. or D.El.Ed. This may have been an unintentional mistake, but it was on this basis that they could participate in selection process from this stage onwards.

However, it does not cure the lack of requisite qualification with the applicants.

16. It is true that some similarly placed candidates agitated the matter in judicial fora and eventually got the relief. However, the Hon'ble High Court of Karnataka, had clarified in their order itself that it cannot be quoted as a precedence (Para 11 Supra). This judgement is therefore, of no help to applicants.

17. The instant applicants did not agitate the matter at the relevant point of time. Perhaps they waited to see the outcome of matter being agitated by similarly placed candidates (Para 5 supra).

The agitation by instant applicants started with OA-286/2019 filed before

Ernakulam Bench (Para 8 supra). It is belated as by now, the new recruitment process was already underway (para 13 supra).

Their pleas that by virtue of notification Dt. 31.8.2016/1.9.2016 (Para 7 supra), and indication of similar action as per judicial pronouncements, it was not necessary for them to enter into agitation, is of no help to them as the result of agitation was in the nature of in-personnem relief for petitioners only, as was clarified by Hon'ble High Court themselves (Para 11 supra). This relief cannot be granted in-rem to all similarly placed candidates.

18. In view of foregoing, it is not considered in the interest of justice to grant any relief to the applicants at this stage.

Accordingly, the present OA is found to be devoid of any merit, and it is dismissed as such. Pending MAs, if any, are also disposed of accordingly. No order as to costs.