

(1998) 09 AHC CK 0023

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 37274 of 1995

Manoj Kumar Singh and Another

APPELLANT

Vs

The District Basic Education Officer and Others

RESPONDENT

Date of Decision : 16-09-1998

Acts Referred:

Citation : (1999) 1 UPLBEC 776

Hon'ble Judges : D.K. Seth, J

Bench : Single Bench

Advocate : Rakesh Prasad and Prakash Padia, for the Appellant; K.S. Shukla and S.C., for the Respondent

Judgement

D.K. Seth, J.—In this petition, the petitioners had claimed consideration of their candidature for selection of teachers for basic schools which required the prescribed qualification of B.T.C. where as the petitioners were B. Ed.

2. It is contended by Mr. Prakash Padia, learned Counsel for the petitioners that the qualification of B.Ed, is higher than B.T.C. Therefore, the same cannot be a disqualification for being considered. It is alleged that because the petitioners did not possess the qualification of B.T.C. they were precluded from appearing in the selection process. He relied on a decision in the case of Firoj Alam Khan v. State of U.P. 1986 UPLBEC 674. He also relied on a decision in the case of B.Ed. Berozgar Sangh v. State of U.P., passed in Civil Misc. Writ Petition No. 4983 of 1997 disposed of on 24-4-1997 [Reported in 1997 LBESR 440], in support of his contention. On the basis thereof the petitioners claim that their case should be considered in terms of the said decision in the case of B. Ed. Berozgar Sangh (supra).

3. Mr. K.S. Shukla, learned Counsel for the respondents, on the other hand, in the case of Nirmal Chandra Mishra and Ors. v. The State of U.P. and Ors., in writ petition No. 28243 of 1996 disposed of on 29-10-1996, in order to contend that the qualification of L.T. and B.Ed, are neither higher nor equivalent to B.T.C., and

therefore, the petitioners cannot claim for being considered in terms of the said advertisement. He contends further that subsequently the State Government has formulated a policy that if sufficient number of candidates with B.T.C. qualification are not available, in that event, the candidature of person having L.T./B.Ed. qualification may also be considered but after having sent them for a short training.

4. I have heard learned Counsel for the parties at length.

5. It appears that identical question was involved in the case of Nirmal Chandra Mishra (supra), wherein it was held that B.T.C. qualification is altogether different from L.T. and B.Ed, while B.T.C. is a course for a period of two years relating to teaching of children, whereas, L.T. and B. Ed. is a course for a duration of one year meant for teaching students of high classes. These being altogether two different qualification, are neither higher nor lower nor equivalent. The distinction that in case of hill area an exception was made but the same was explained in the said judgment. Then again by reason of the subsequent stand taken by the State Government as mentioned by Mr. Shukla, this question is not necessary to be gone into. The decision in the case of B. Ed. Berozgar Sangh and others (supra), has also not deviated from the finding in the case of Nirmal Chandra Mishra (supra). On the other hand it had relied on a decision in the case of Mahendra Nath Mishra v. State of U.P. 1996 (2) ESC 312 : 1996 (2) LBESR 350, which has also not laid down any contrary ratio with that of Nirmal Chandra Mishra (supra). In the decision in the case of B. Ed. Berozgar Sangh and others (supra), the only question that has gone into is a question of relaxation of the said qualification for hill area wherein it was held that if there are insufficient number of candidates with B.T.C. qualification, in that event,, the candidatures of the petitioners having had B. Ed. or L.T. training can be considered. But then the said question which was also followed in the case of Rajesh Kumar Mishra v. State of U.P., in Writ Petition No. 3153 (SS) of 1996 disposed of on 13-6-1996 by the Lucknow Bench, has become irrelevant as since the State Government has framed a policy as contended by Mr. Shukla.

6. In that view of the matter, this writ petition is disposed of in terms of the decision in the case of B. Ed. Berozgar Sangh and others (supra) having regard to the subsequent stand taken by the State Government with regard to consideration of the candidature with B. Ed. and L.T. training provided sufficient number of B.T.C. candidates are not available subject to training. So far as the decision in the case of Firoj Alam Khan and others (supra), cannot be attracted in the facts and circumstances of the case since by reason of the decision cited above B. Ed. and L.T. has not been held to be higher or equivalent than that of the B.T.C.

7. However, there will be no order as to cost.