

**(2007) 07 DEL CK 0125**  
**In the Delhi High Court**  
**Case No : WP (C) No. 3235 of 2001**

Permesh Kumar

APPELLANT

Vs

Govt. of NCT of Delhi and Others

RESPONDENT

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**Date of Decision :** 06-07-2007

**Acts Referred:**

**Citation :** (2007) 07 DEL CK 0125

**Hon'ble Judges :** S.L. Bhayana, J; Manmohan Sarin, J

**Bench :** Division Bench

**Advocate :** T.D. Yadav, for the Appellant; Geeta Luthra and Aanchal Mullick, for the Respondent

**Final Decision :** Dismissed

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## Judgement

Manmohan Sarin, J.—Petitioner is aggrieved by the dismissal of OA No. 1339/1999 filed before the Central Administrative Tribunal, Principal Bench, New Delhi, vide order dated 27.11.2000. Petitioner in the said OA had challenged his non-appointment as TGT, Social Science. The Tribunal held that the petitioner Permesh Kumar did not meet the eligibility criteria. Petitioner did not secure 50% marks in the aggregate in the examination for 10th, higher secondary/intermediate, graduation and B.Ed. Besides, he had done his graduation in Agricultural Science, which was not an elective subject for TGT Social Science.

2. Petitioner had applied for the post of TGT and had applied in response to the advertisement dated 21.1.1997 taken out by respondent No. 2 for the post of TGT and Language Teacher for its schools in Delhi. Petitioner's claim in the writ petition is that he duly met the eligibility criteria being a physically handicapped person and he applied for the post of TGT Natural Science under the physically handicapped category. Petitioner also claims that as per the Recruitment Rules, the requirement of minimum marks to be secured in the aggregate at the graduation, intermediate/higher secondary and other levels was 45%. Petitioner had duly secured 45.6% marks in the higher secondary examination and as such, was eligible in terms of the Recruitment Rules, which must prevail over the

terms of the advertisement. It would be worthwhile, at this stage, to reproduce for facility of reference, the relevant extract from the English translation of the advertisement as it appeared in the newspaper:

GOVT. OF N.C.T. OF DELHI

DIRECTORATE OF EDUCATION,

OLD SECRETARIAT, DELHI.

RECRUITMENT OF TRAINED GRADUATE TEACHERS AND LANGUAGE TEACHERS

(SCALE OF PAY Rs. 1400-2600 WITH OTHER ALLOWANCES)

...

Applications are invited from all those male and female candidates in the following subjects for the posts of TGT and LT whose registration is valid up to 31.12.1996 in the Employment Exchange of Delhi:

A. TGT :- English, Maths, Natural Science and Social Science

B. LT :- Hindi, Sanskrit, Punjabi and Urdu.

DESIRABLE QUALIFICATION (FOR TGT)

1. Bachelor's Degree (Hons./Pass Course) or equivalent qualification from any recognized university with the following two subjects out of which one should have been studied as an elective subject.

(i) English

(ii) Mathematics

(iii) Natural/Physical Science

Main Subjects:- Physics/Chemistry/Biology/Botany/Zoology (iv) Social Science

Main Subjects:- History/Political Science/Economics/Vocational Education/Sociology/Geography/Philosophy

2. Degree/Diploma in teaching

3. working knowledge of Hindi.

C. COMPULSORY QUALIFICATIONS FOR THE POSTS OF LANGUAGE TEACHER.

1. Bachelor's Degree (Hons.) from any recognized University in the concerned B.A. (Pass) with concerned language out of which one subject should be elective, besides that one additional language, one subject should have been studied up to Degree level at College.

OR

Must have passed Sahitya Ratan examination from Hindi Sahitya Sammelan

Paryag with the English subject at High School examination level.

(ONLY FOR APPOINTMENT OF HINDI LANGUAGE TEACHER)

2. Bachelor Degree/Diploma in Education.

3. Working knowledge of Hindi is mandatory.

Applications are invited for the above posts only from those candidates who must have acquired the prescribed qualifications and must have obtained minimum 50% marks in Class 10th (Matric), Higher Secondary/12th (10+2) or Intermediate and in all Bachelor Degree level including education.

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Apart from the petitioner's contention that the minimum requirement as per Recruitment Rules should prevail over the stringent condition of 50% as per the advertisement. Besides the above, counsel contended that respondents have unreasonably and in derogation of their past practice, sought to exclude the petitioner by holding that his degree in B.Sc. (Agriculture) as qualifying him to hold the said post. He has cited the example of Sansar Singh, who was also possessing B.Sc. (Agriculture) qualification but was held eligible and was appointed. As regards minimum marks, reliance is placed on the case of Sher Khan, who is stated to have secured only 48% in B.Ed. but has been appointed as TGT, Social Science.

3. The respondent in the counter affidavit filed, have rebutted the pleas sought to be raised. While admitting the factum of application, it has been averred that the petitioner failed to meet the criteria of having 50% aggregate marks in the 10th standard. Secondly, it has been brought out that the essential qualification for the post of TGT in Social Science was that a candidate should have studied one subject out of History, Political Science, Economics, Business Studies, Sociology, Geography and Psychology at the graduation level. Petitioner has done his graduation in Agricultural Science, which was not an elective subject for the post of TGT, Social Science.

4. Regarding the petitioner's grievance of persons with lesser marks than the petitioner having been selected, it is explained that once the petitioner is found ineligible, there was no question for proceedings for evaluation and assigning him marks. Respondents have also explained that under the Recruitment Rules notified vide Notification No. F.27/8/88-Edn/1858-63 dated 11.12.1991, it was permissible for Agricultural graduates to be appointed as TGTs. However, experience demonstrated that agricultural graduates, who were appointed as TGTs, were not able to teach the subject effectively. Accordingly, it was decided to drop the subjects of Agriculture/Horticulture from the Recruitment Rules as subjects under Social/Natural Science. These subjects were accordingly not included in the advertisements placed in the newspapers for the recruitment process of 1997. The Recruitment Rules were also amended to exclude Horticulture and Agriculture subjects vide a Notification dated 27.2.1997. In fact,

appointment of Sansar Singh was at the time when the Recruitment Rules permitted Agriculture/Horticulture as a subject for TGT in Natural Science. Similarly, Sher Khan was appointed when there was no condition of having secured 50% marks in all examinations up to graduation and B.Ed. level.

5. We find considerable merit in the response of the respondents regarding the eligibility conditions by which graduates in agriculture or horticulture have been excluded as a result of the amendment in the Recruitment Rules for the post of TGT in Social Science. The mere fact that the petitioner may have studied a subject in graduation level like economics or any other subject as he claims, the position remains that he is a graduate in Agricultural Science, which is not an elective subject for the post of TGT, Social Science. This apart, petitioner has been disqualified on the ground of not having the requisite 50% marks. This brings us to the submission of the petitioner that the condition in the Recruitment Rules should prevail over the stringent term, which is sought to be imposed and incorporated in the advertisement. This matter is no longer rest integra. A Division Bench of this Court in CWP No. 786/2000 had the occasion to deal with the similar situation in the case of Satyavir Singh v. GNCTD and Ors. Here also, it was contended that the petitioners therein fulfilled the criteria as per the Recruitment Rules. Petitioner therein had also secured 48% marks in B.Ed. standard and he was having a degree in Agriculture. The Division Bench negated these submissions and held as under:

It was further contended that as per the policy regarding 1997 recruitment of TGT/LT framed by the Cabinet a candidate must have secured 50% of marks throughout in aggregate in 10th, 12th, graduation and B.Ed. standards. If a candidate fails to secure 50% marks at any stage, he will not be eligible for applying to the post of TGT/LT in 1997 recruitment. This was highlighted in the advertisement. Applicant has done graduation in Agriculture, which is neither a subject of natural science and nor of social science i.e. the subjects as per rules. Natural Science includes the following subject: Physics/Chemistry/Biology/Botany/Zoology. Social Science includes the following subject: History/Political Science/Economics/Business Studies/Sociology/Geography/Psychology. As per the Recruitment Rules a candidate must have passed the Bachelor Degree (Hons./ Pass) or equivalent from a recognized university with two school subjects of which at least one out of the subjects mentioned above should be an elective subject. It is clearly evident that agriculture is neither a subject of natural science and nor of social science, Therefore, the applicant had no merit for the post of TGT Natural Science and social science.

In addition, the Division Bench also held that there was nothing in law to prevent the employer to prescribe a higher standard thereby paving for a higher percentage of marks being prescribed over the advertisement, which was more stringent and higher than the Recruitment Rules.

6. We are in respectful agreement with the findings of the Division Bench. We may also notice that the petitioner has not demonstrated that being an applicant

from physically handicapped category, he is exempted from the requirement of the eligibility condition either in terms of educational qualification or of the marks required. We also notice that in this case, no interim injunction has been granted to the petitioner. The recruitment process is of 1997, which is long over and without any reservation of seat being kept for the petitioner.

In view of the foregoing discussion, we find no merit in the writ petition and the same is dismissed.