

(2010) 05 DEL CK 0292

In the Delhi High Court

Case No : Writ Petition (C) No. 3478 of 2010

Sh. Prakash Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 20-05-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 05 DEL CK 0292

Hon'ble Judges : Mool Chand Garg, J;Anil Kumar, J

Bench : Division Bench

Advocate : Sanjay Mani Tripathi, for the Appellant; Sonia Sharma and Jayender for Respondent Nos. 1 to 3, for the Respondent

Final Decision : Dismissed

Judgement

Anil Kumar, J.—The petitioner has challenged the order dated 22nd February, 2010 passed by the Central Administrative Tribunal, Principal Bench in OA 3073/2009 titled as Sh. Prakash Singh v. UOI through Secretary, Ministry of HRD, dismissing his application seeking direction to the respondent to quash and set aside the selection process for the post of TGT (Math) held as per advertisement dated 15th - 21st November, 2008 and direction to the respondents to consider the petitioner for empanelment as a TGT (Maths).

2. The petitioner graduated in PCM stream in second division from CCS University, Meerut. He had scored more than 66% marks in PCM Stream in Maths, Physics and Chemistry, however, he did not score more than 50% marks in chemistry.

3. By the notification dated 15th/21st November, 2008 in Employment News, the Kendriya Vidyalaya Sangathan, respondent Nos. 2 & 3 invited applications for the post of TGT (Maths) under the post code No. 36 with pre-revised pay scale of Rs. 5500-9000. The upper age limit for the said post was 35 years and the last date of receipt of application was 15th December, 2008.

4. The essential qualifications laid down for the candidates for the post of TGT (Maths) were as under:

Essential Qualifications:

i) Four years Integrated Degree Course of Regional Institute of Education of NCERT in the concerned subject with at least 50% marks in aggregate or Second Class Bachelor's Degree with at least 50% marks in the concerned subject(s) and in aggregate including elective and languages in the combination of subjects as under:

S. No. Short Post Subject (s) Subject Name of Code Code Post/Sub ject 1.
TGT 36 Maths with any two of the 06 (Math.) following subjects: Physics/
Chemistry/Electr onics/Computer Science/Statistics

ii) B.Ed. or equivalent degree from a recognized University.

iii) Proficiency in teaching in Hindi, and English.

Desirable: Knowledge of Computer Application.

5. The petitioner applied for selection for the post of TGT (Maths) and he was issued an admit card for the written examination. The petitioner qualified the written examination and he was called for interview on 30th June, 2009.

6. The petitioner was, however, not empanelled in the select list of the candidates for the post of TGT (Maths) in OBC category and therefore, he sought information under RTI Act, 2005 and he was informed that he was not eligible because he had secured 221 marks out of 450 marks in chemistry at graduation level, which was less than 50% marks.

7. The petitioner challenged his non-empanelment for the post of TGT (Maths) on the ground that though he did not have 50% marks in Chemistry, however, he had 50% marks in Mathematics and he also had aggregate marks of more than 50% and in any case, Physics, Chemistry and Maths (PCM) his percentage was more than 57%. It was contended that low percentage of 49.11% in Chemistry alone could not affect his eligibility for the post of TGT (Maths) as he had not applied for TGT (Science) nor for any TGT post other than Maths. The petitioner also contended that the marks obtained in Chemistry by the petitioner at the graduation level have no nexus to his appointment as a TGT (Maths).

8. Before the Tribunal, the plea of the petitioner was contested by the respondents contending, inter alia, that the petitioner was not eligible for empanelment because he had less than 50% marks in Chemistry at the Graduate level. Regarding issuing of admit card and the petitioner qualifying the exam and appearing in the interview, it was asserted that he was allowed to appear as a candidate provisionally but final selection of the petitioner was subject to eligibility for the post as the verification of certificates is done at the time of interview. Reliance was also placed on the Employment News dated 15th - 21st November, 2008 stipulating that the candidate should ensure that they fulfill all

eligibility conditions and mere issuance of admit card will not imply that the candidate has been finally selected.

9. Regarding the essential qualifications for the post code No. 36 viz. TGT (Maths), it was categorically stipulated that Maths with any of the two following subjects, i.e., Physics/Chemistry/Electronics/Computer Science/Statistics. A candidate was required to have a Bachelor's degree with at least 50% marks in concerned subject(s) and in aggregate including elective and languages in the combination of subjects a minimum of 50% marks. Since for the Maths, a candidate was required to have following additional subjects of Physics/chemistry/electronics/computer science/Statistics, the candidate was required to have 50% marks in subject(s).

10. The Tribunal, after considering the pleas and contentions of the parties, agreed with the stand taken by the respondents that for TGT (Maths), a candidate was liable to have 50% marks not only in the Maths but also in two other subjects. The essential qualifications categorically stipulated that at least 50% marks in the concerned subject(s). Reliance was also placed by the Tribunal on the decision of the Supreme Court in the case of Ashok Kumar Sonkar Vs. Union of India (UOI) and Others, . The Tribunal agreed with the interpretation of the eligibility condition given by the respondent and dismissed the original application of the petitioner.

11. The learned Counsel for the petitioner has very vehemently contended that since the petitioner had applied for the post of TGT (Maths), the requirement was 50% marks in that subject only and in the circumstances, it could not be held that the petitioner is not eligible. However, perusal of essential qualifications reveals that a candidate for the post of TGT (Maths) was required to have two more subjects with Maths, which were Physics/Chemistry/Electronics/Computer Science/Statistics. For TGT (Maths), if a candidate was required to have two more subjects, the qualification also contemplated that the candidate must have obtained at least 50% marks in concerned subject(s). Since the name of the post was TGT (Math), it cannot be held in the facts and circumstances that the candidate was required to have 50% marks in that subject only. The subject(s) in the advertisement is plural for TGT (Math) and therefore, it cannot be inferred that the eligibility condition of minimum 50% marks is not applicable to two other subjects which a candidate is required to have with the subject Maths. Therefore, the construction of the eligibility qualification that a candidate is required to have minimum 50% marks in Maths and other two subjects so as to be eligible for the post of TGT (Maths) cannot be faulted.

12. In the facts and circumstances, therefore, we do not find any illegality or irregularity in the order of the Tribunal challenged before us, which will require any interference by us in exercise of our jurisdiction under Article 226 of the Constitution of India.

13. The writ petition is without any merit, and it is, therefore, dismissed.