

(2005) 10 MAD CK 0038

In the Madras High Court

Case No : Writ Petition No. 34620 of 2002 and W.P.M.P. No. 51609 of 2002

The Assistant Commissioner, Kendriya Vidyalaya Sangathan
and The Administrative Officer, K.V.S. Region

APPELLANT

Vs

T.K. Krishna Kumar and The Registrar, Central Administrative
Tribunal

RESPONDENT

Date of Decision : 28-10-2005

Acts Referred:

Citation : (2005) 10 MAD CK 0038

Hon'ble Judges : S.K. Krishnan, J; P. Sathasivam, J

Bench : Division Bench

Advocate : M. Vaidyanathan, for the Appellant; Krishna, for the Respondent

Judgement

P. Sathasivam, J.—Aggrieved by the order of the Central Administrative Tribunal, Chennai dated 6-3-2002 passed in O.A.No. 223/2001, Kendriya Vidyalaya Sangathan, Chennai has filed the above writ petition.

2. According to the petitioners, the first respondent herein, namely, T.S. Krishna Kumar was appointed as a Primary Teacher on 6-8-88 at K.V. Kalpakkam. At the time of his appointment, he had stated his qualification to be B.A., B.Ed. After serving for 3 years in the said school, he was transferred to K.V.II Tambaram where he worked for 5 years and later transferred to K.V.II Sadras. K.V. Sangathan being an autonomous body registered under the Societies Registration Act, 1860 is financed by the Government of India through the Ministry of HRD (Department of Education). The staff of Kendriya Vidyalaya Sangathan are governed by the rules framed by the Board of Governors in terms of the policies laid down by the Government of India. The Government of India, Ministry of HRD Department of Education introduced a three tier system of scales to all the teachers. According to the Scheme, all the teachers in the K.V. Sangathan who have completed service of 12 years in the ordinary scale would be eligible for senior scale subject to certain conditions and assessment by DPC. The standard of assessment for appointment to the Senior scale is based on the

ACRs of the teachers in the Sangathan for the last 5 years on the basis of "Rejection of Unfit". The Kendriya Vidyalaya Sangathan had circulated a list of fake Universities in their letter dated 20-9-96. As per the said letter, the teachers including the first respondent were directed to produce original certificates, but the first respondent evaded production of his certificates. The Department on verification of the first respondent's service records, found that the first respondent had obtained his B.Ed., Degree from the self-styled Mythili University, New Delhi. Though he had completed 12 years of service, his appointment to the senior scale was not considered and the first respondent's fitness per se to hold the post of PRT is also doubtful. The first respondent filed O.A.No.223/2001 before the Central Administrative Tribunal. The Tribunal, by the impugned order, issued certain directions. Though the Kendriya Vidyalaya Sangathan is permitted to examine the genuineness of B.Ed., Degree certificate produced, directed to consider the possibility of granting senior scale from the date when his immediate junior has been granted the said benefit because the applicant is also discharging the same duty as has been discharged by his juniors. Questioning the direction in clause (b), namely, granting senior scale, the Kendriya Vidyalaya Sangathan has filed the above writ petition.

3. Heard learned counsel for the petitioners as well as first respondent.

4. It is not in dispute that though the first respondent had completed 12 years of service, in view of the questions raised in the Parliament, list of fake Universities were ascertained and identified and after enquiry, the petitioners came to know that the first respondent had obtained his B.Ed., Degree from self-styled Mythili University which is a fake university and not recognised by the U.G.C. No doubt, learned counsel for the first respondent argued that he possessed more than required qualification, hence the Tribunal is justified in issuing direction for award of senior scale. The said contention is liable to be rejected for the following reasons.

4. As per the recruitment rules, educational and other qualifications required for direct recruitment as in Appendix III is as follows:

"15. Recruitment Rules for the Post of Primary Teacher.

1 to 6. xx xx

7. Educational and Essential:

other qualifications (i)Senior Secondary (Class required for direct XII) with 50% marks recruits - JBT-after Senior Secondary(Class XII) or B.Ed. or equivalent or B.E1.Ed.

(ii)Competence to teach through Hindi and English media.

Desirable:

Knowledge of Computer Application."

It is clear that the qualification required for the post of Primary Teacher is Higher Secondary with JBT (2 years) or intermediate with JBT (one year) or plus Two examination (Senior School Certificate examination) with JBT (one year). As rightly pointed out, the Tribunal failed to note that JBT or B.Ed., from a recognised University is an essential criteria for the post of Primary Teacher. As rightly pointed out, the first respondent having obtained B.Ed., certificate from a fake University cannot per se be eligible to hold even the post of Primary Teacher, hence the direction of the Tribunal to consider him for a senior selection scale cannot be sustained. It is also brought to our notice that the appointment to senior selection scale is not on the basis of seniority, but on the basis of service rules. The Tribunal has failed to note that the first respondent has produced B.Ed., certificate from Mythili University which has been declared by the UGC as fake University and the said University is included in the list of Universities which have been classified as unrecognised University by the UGC and the said list has been circulated to various Newspapers. The Tribunal also committed an error in drawing a comparison between the first respondent and other immediate juniors, since the latter hold degrees given by recognised universities. It is to be noted that training in a proper organised and equipped training Institute is essential before a candidate becomes qualified to receive teachers training certificate. It is also relevant to note that in a Educational Institution, teachers play a pivotal role in moulding the career, character and aptitude of young children and if the teachers from unrecognised institutes are allowed to teach children of impressionable age, contrary to the norms prescribed, it will be detrimental to the interest of the nation.

5. In the light of our discussion, direction in Clause (a) and Clause (c) in para 9 of the impugned order of the Tribunal are retained; and direction in Clause (b) to the Kendriya Vidyalaya Sangathan to consider the possibility of granting senior scale on par with immediate juniors is set aside. If the applicant/first respondent completes regular B.Ed., Degree course from a recognised University within a stipulated time framed, he shall be considered for grant of senior scale. Writ Petition is allowed in part. No costs. Connected W.P.M.P., is closed.