
(2010) 04 PAT CK 0110
In the Patna High Court

The Union of India (UOI) and Others

APPELLANT

Vs

Krishna Kumar Jaiswal

RESPONDENT

Date of Decision : 07-04-2010

Acts Referred:

Citation : (2010) 04 PAT CK 0110

Hon'ble Judges : Sudhir Kumar Katrariar, J;Kishore Kumar Mandal, J

Bench : Division Bench

Judgement

Sudhir Kumar Katrariar, J.—This writ petition is directed against the order dated 9.4.2002 (Annexure-1), passed by the learned Central Administrative Tribunal, Patna Bench, in O.A. No. 508 of 2000 (Krishna Kumar Jaiswal v. The Union of India and Ors.), whereby the original application preferred by respondent No. 1 herein, has been allowed and the authorities have been directed to consider his case for promotion to the category of Post Graduate Teachers (in short, the PGT).

2. A brief statement of facts essential for the disposal of this writ petition may be indicated. Respondent No. 1 was appointed as a Physical Training Instructor (in short PTI), on 29.10.1990, in the Mixed Secondary School, Chakradharpur, South Eastern Railway, in the pay scale of Rs. 1400-2600, and the revised pay scale of the same is Rs. 5500-9000/-. It is relevant to state that the Railways have a cadre of Trained Graduate Teachers (in short, TGT) in the revised pay scale of Rs. 5500-9000/- who are promoted from amongst lower cadre of secondary teachers. The entire PGT (in the revised pay scale of Rs. 6500- 10500/-) are promoted from amongst TGT. It is relevant to state that the minimum qualifications of PTI are graduate plus diploma in physical training. The minimum qualification of TGT is graduation in a specified subject, and B. Ed. No extra qualification is prescribed for PGT except that they are drawn from TGT. It is further relevant to state that respondent No. 1 holds degree of Master of Arts in Political Science as well as qualification of Diploma in Physical Education as well as B. Ed.

2.1. The work-mens association representing respondent No. 1 raised an issue

before the Railways that there is no promotional avenue for PTI. They should, therefore, be considered for promotion of PGT. The authorities considered the grievances raised by the association and issued order dated 6.7.2000 (Annexure-9). The text of the aforesaid order is reproduced hereinbelow:

Sub: Avenue of promotion of Physical Training Instructor working in Railway Schools.

Ref: Railway Boards letter No. E(NG)1/89/PM12/1 dated 9.1.91 & E(NG)I- 99/PM12/1 dt.30.6.99.

It has been decided by the Competent Authority that the Physical Training Instructors working in the Railway Schools who possess the requisite Educational and training qualifications for the post of T.G. Teachers may be given avenue to trained graduate teachers. Such qualified Physical Training Instructors will be called in the selection of T.G. Teachers in the respective medium.

3. In view of the position that the authorities did not accede to the request of respondent No. 1 to consider his case for PGT, he preferred the original application which has been allowed by the impugned order. The operative portion of the order is reproduced hereinbelow:

4. In view of the above and keeping in view of the factual position reported by the different Railway authorities including the Apex Railway Authority i.e. the Railway Board and also the decision of the Hon''ble Patna High Court in the case of PTIs of the Government High School, etc. conveyed in the letter of the State Government dated the 24th November, 1986, we are inclined to agree that the applicant, who is PTI in the Boys High School, Eastern Railway, Danapur Division, and who appears to be possessing the qualification other than the relevant qualification in Physical Training, may be considered along with other trained Graduate Teachers for the purpose of selection to the posts of Post Graduate Teacher in any selection to be made for filling up of the post of Post Graduate Teachers. It may also be ensured by the Respondents that the applicant may be considered in any selection for the post of Post Graduate Teacher if Trained Graduate Teachers junior to him are being considered. With these observations this OA stands disposed of with no order as to costs.

5. While assailing the validity of the order of the learned Tribunal, learned Counsel for the petitioners submits that it has taken a short- sighted view of the underlined portion of the order dated 6.7.2000(Annexure-9). In his submission, PTI has first of all to enter into the category of TGT whereafter he could be promoted to the post of PGT, otherwise it may adversely affect the quality of education.

6. Learned Counsel for respondent No. 1 has supported the impugned order.

7. We have perused the materials on record and considered the submissions of learned Counsel for the parties. It appears to us on a perusal of the materials on record that PTI had no avenue of promotion. The issue was thrashed between

the Management and the Union and they came to the conclusion that PTI can be considered for promotion to the PGT if he is found to be possessing the educational qualifications for appointment as TGT. It is relevant to state, as indicated hereinabove, that the pay scale of TGT and PTI is one and the same. It is, therefore, a question of adjudging the basic educational qualifications of PTI to be transposed to the category of TGT. Once these educational qualifications are adjudged and it is found that PTI has educational qualification to be appointed as TGT, he can be considered for promotion for PGT. It does not appear to us to be necessary that a formal order of transposition to the category of TGT is essential. It further appears to us that it is possible to take up the issue with respect to transposition to the category of TGT, and that of promotion to PGT, may be taken up together. It is relevant to state, as indicated hereinabove, that no extra educational qualification is needed for PGT except perhaps the experience needed as TGT. It goes without saying that the minimum experience needed for a TGT to be promoted PGT shall also be applicable to PTI. In other words, in order to be promoted as a PGT, a PTI should as such have the same experience, as a TGT as such.

8. It goes without saying that educational qualifications alone will not entitle a PTI to be promoted as PGT. That is essential to enable him to enter the zone of consideration, whereafter his suitability for the next higher post of PGT shall be adjudged in accordance with the relevant rules/circulars, and the established procedure of the Railways.

9. The writ petition is accordingly disposed of.