

(1995) 05 DEL CK 0006

In the Delhi High Court

Case No : Civil Writ Appeal No. 4693 of 1994

Veena Aggarwal

APPELLANT

Vs

Managing Committee, Shri Lakshmi Narain Trust, Gujarat
Senior Secondary School and Others

RESPONDENT

Date of Decision : 01-05-1995

Acts Referred:

Citation : (1995) 3 AD 126 : (1995) 59 DLT 167

Hon'ble Judges : S.D. Pandit, J;P.K. Bahri, J

Bench : Division Bench

Advocate : J.K. Seth, S.K. Shukla and Adarsh Goel, for the Appellant;

Judgement

S.D. Pandit, J.

(1) Rule D.B. We have heard learned Counsel for the parties at length. Learned Counsel for the parties have also taken us through the various documents on record. We, Therefore, proceed to dispose of this petition finally.

(2) Petitioner Veena Aggarwal is working as a Trained Graduate Teacher (TGT) with the respondent No. 1 Gujarat Senior Secondary School. She had joined the said School about 29 years ago. She is also one of the members of the Managing Committee of the said School. On 14.4.1993, respondent No.4, Manager of the Institute which runs the said School issued an advertisement inviting applications for appointment to the post of Principal for the said School. Petitioner, Veena Aggarwal, as also respondent No. 4 Seema Aggarwal, had applied for the said post. Interviews for selection were held on 6.8.93 and in the said selection Ms. Seema Aggarwal was selected and she joined as Principal on 2.9.1993.

(3) Petitioner has averred that the said school is governed by the Delhi Education Act and the Rules framed thereunder. Though she was fulfilling all the necessary qualifications for appointment as the Principal, the Selection Committee was not pleased to select her. It is her further claim that the selection of respondent No. 4 is illegal and improper as she was not having the necessary qualifications and

experience of 10 years as TGT. She came to know about the Institute's decision to relax the condition of the said qualification only on 22.4.1994.

(4) On 27.7.1994 there was meeting of the Managing Committee of the School and in the said Managing Committee Meeting she had objected to the selection of respondent No. 4 as Principal and had contended that the relaxation in her favor was illegal and that her selection and appointment as Principal should be cancelled. Because of the said stand taken by her respondent No. 4 started harassing her and has issued various memos and has threatened her to take disciplinary proceedings against her in order to silence her. She has, Therefore, filed the present petition with the prayer to the Court to issue a Writ of Certiorari against respondents 1,2 & 3 and to quash the appointment of respondent No. 4 as the Principal of the said School and to further restrain respondents Nos. 1,2 & 3 from confirming respondent No.4 and from suspending the petitioner or taking any disciplinary proceedings against her in pursuance of the memos issued by respondent No. 4.

(5) Respondents 1,3&4 have contested the claim of the petitioner by filing the counter affidavits. It has been contended that the petition filed by the petitioner is not at all bona fide and. honest. Even though she is very well aware that respondent No. 4 Ms. Seema Aggarwal has been confirmed as Principal on 1.9.1994 after the completion of the probation period, she has come before this Court to get an order to prevent her confirmation. It is further contended that the petitioner has not even disclosed all the true and relevant facts and has concealed material facts from this Court in order to mislead the Court. The Departmental Promotion Committee met on 19.2.1993 and in the said Departmental Promotion Committee Meeting all the Post-Graduate teachers of the School were considered and found unsuitable to shoulder the responsibility of Principal of the School. Against the said decision the petitioner had not made any representation to her appointing authority, i.e., the School Management or respondent No. 2 the Director of Education. Thereafter, the Management had decided to give an advertisement and, accordingly, an advertisement was issued. In pursuance of the said advertisement internal teachers, including the present petitioner and outsiders had applied for the said posts. Their applications were scrutinised and On 6.8.1993 six internal teachers, including the petitioner and eight external teachers, including respondent No. 4 Ms. Seema Aggarwal, were interviewed by the Selection Committee and the selection of respondent No. 4 was made. The claim of the petitioner that respondent No. 4 was not fulfilling all the necessary qualifications for getting the said post of Principal is incorrect as respondent No. 4 is fully qualified in all respects. There was no necessity to have any relaxation of the qualification but by way of abundant caution the management had written to respondent No. 3 to relax the qualification of 10 years experience as Pgt in view of the higher qualifications of respondent No. 4, who is throughout a First Class ever since her S.S.C. examination till post-graduation as well as graduation in teaching. It is further contended that the memos were issued by respondent No. 4 against the petitioner in view of her

conduct and in order to maintain discipline in the School. There is no question of acting malafide or vindictively against the petitioner. It is, thus, contended that the writ petition is devoid of any merits and the same should be dismissed.

(6) It is abundantly clear that before issuing the advertisement the Managing Committee of the said School had considered all the post-graduate teachers in the School, including the petitioner Ms. Veena Aggarwal for promotion to the post of Principal of the said School. Only after finding that none of them was suitable to shoulder the responsibility of the Principal of the School that they had taken the decision to issue advertisement and accordingly advertisement was issued on 4.4.1993. Petitioner has avoided to mention all these facts. Similarly, from the material on record it is also quite clear that respondent No. 4 Seema Aggarwal was initially appointed on probation and on satisfactory completion of the said probationary period she has been confirmed as a Principal on 1.9.1994 but inspire of this petitioner is seeking a mandate from this Court to respondents 1, 2 & 3 from confirming respondent No. 4 as the Principal of the School. This conduct of the petitioner in not coming before the Court with true and necessary facts shows that she has not come before this Court honestly.

(7) There is no dispute over the fact that respondent No. 4 Ms. Seema Aggarwal is a post-graduate trained teacher. She is having Degrees in M.A. and B.Ed. and she has obtained 1st Class in both the Degrees. The required qualification for the post of Principal is as under:-

(I) Master's Degree with at least II Division from a recognised University or equivalent. (ii) Degree in Teaching/Education from a recognised University or equivalent. (iii) 10 years experience of teaching as Vice-Principal, Tgt in a Hr. Sec. /Sr. Section School or Inter College. Condition of Second Div. relaxable in the case of candidates belonging to the same School and also in case of SC/ST candidates. Desirable (i) Experience in Administrative charge of a recognised High/ Sr. Sec. School/ Inter College. (ii) Doctorate Degree. (iii) M.Ed. Degree from recognised University.

(8) There is no dispute over the fact that respondent No. 4 is possessing the first two qualifications, viz. holding of Masters Degree and Degree in teaching. The dispute between the parties is regarding the third qualification. The third qualification prescribes that the candidate must have ten years experience of teaching as Principal/TGT in Higher Secondary/Senior Secondary School/or Inter College. Respondent No. 4 has worked as a Pgt in Modern Public School, Shalimar Bagh, Delhi between 23.7.85 and 31.5.86 and again between 1.7.86 and 31.5.87. She has also worked as Post-Graduate teacher in S.D. Public School, Road No. 10, East Punjabi Bagh, Delhi between July 1987 and May 1988 and against between 14.7.88 and 1.9.93. Besides this, she has worked as a Lecturer in Municipal Girls Degree College, Kasganj, Uttar Pradesh for the period between 15.10.79 to 31.12.1981. If the said teaching experience of respondent No. 4 is taken into consideration, it would be quite clear that as on the last date for submission of applications she was having more than 10 years teaching

experience as PGT. The controversy is as to whether her teaching experience as a lecturer in Municipal Girls Degree College, Kasganj, Uttar Pradesh, could be counted or not. It is very pertinent to note that the Delhi Education Rules which have prescribed these qualifications for the said post has nowhere given the definition of "Inter College". Even in the said Recruitment Rules it is not specified as to what is meant by "Inter College". A Degree College could not be said to not an Inter College. A person who is working as a Lecturer in a Degree College could not be said to be not having the experience as a teacher in Inter College. Therefore, we are not in a position to accept the contention of the learned Counsel for the petitioner that her teaching experience in the Municipal Girls" Degree College could not be counted while considering her qualifications for the said post of Principal. It must be remembered that respondent No. 4 is considered and selected for the post of Principal in Higher Secondary School. Her experience as a lecturer in a College could not be said to of no use in Higher Secondary School.

(9) No doubt the Management of the School had written to the Education Department to relax her qualification but merely because the Management had written it could not be said that respondent No. 4 was not possessing the necessary qualification. It seems the Management of the School had written to the Department by way of abundant caution in case there happened to be an interpretation that her experience in the Degree College could not be counted. Therefore, merely because the Management of the School had written for relaxation of the qualification, it could not be said that respondent No. 4 did not possess the necessary qualification. It could not be said that a person who has got experience of teaching in the Degree College is not having the experience as a Post-Graduate Teacher. The required qualifications for the post of Lecturers in the Degree College are also of a Post Graduate Degree and a Degree in teaching which are also the qualifications for the post of Principal and for the post of Post-Graduate Teacher. Therefore, when the Rule does not say that the experience as a teacher or lecturer in the College would not be counted as an experience as a Post Graduate Teacher, the experience of a person as a Lecturer in a Degree College could be said to be an experience as a Post-Graduate Teacher.

(10) Learned Counsel for respondent No.4 drew our attention to the Recruitment Rules for the post of Post-Graduate Teacher. The relevant part thereof reads as under:

ESSENTIAL:

1.Master-Degree (or) its equivalent oriental degree in the case of Pgt (Sanskrit/Hindi) in subject concerned from recognised University. 2. Degree/Diploma in training/education.

Amended vide notification No. F.2(19)/79 5.11 dated 27.4.1981. "Qualification mentioned at SI. No. 2 above is relaxable in case of candidate: (i) Having obtained Ph.D. degree in the subject concerned from a recognised University/

Institution. (ii) Having obtained First Division in Hr. Section Examination. Graduation degree and Post Graduate with the mandatory condition that the candidate will acquire B.Ed./B.T. qualification within a period of three years from the date of his joining the service.

DESIRABLE: Three years experience of teaching in a college/Hr. Section School/ High School in the concerned subject. If the above provision is considered then it would be quite clear that the three years teaching experience in a College is desirable for the post of Post-Graduate teacher. That shows that the experience of teaching in a College is to be considered and taken into account while counting the experience of a person as a Post-Graduate Teacher.

(11) Thus, we are of the view that the experience of respondent No. 4, Ms. Seema Aggarwal as a Lecturer in a Degree College could be considered as an experience as Post-Graduate teacher for the purposes of considering her qualifications for getting the post of Principal in a Higher Secondary School.

(12) Learned Counsel for the petitioner has cited before us the case Mrs. Rekha Chaturvedi (Smt) Vs. University of Rajasthan and Others, where in it has been held as under:

"C. When the University or its Selection Committee relaxes the minimum required qualifications, unless it is specifically stated in the advertisement/ notification both that the qualifications will be relaxed and also the conditions on which they will be relaxed, the relaxation will be illegal."

But, in the instant case we have found that respondent No. 4 was possessing the necessary qualification as on the last date prescribed for submission of applications for the post and there is no question of relaxing any qualification in her favor and, Therefore, the said case is of no help to the petitioner.

(13) Thus, we hold that the appointment of respondent No. 4 is not at all illegal or improper so as to interfere with the same by exercising the jurisdiction under Article 226 of the Constitution of India. We are also unable to hold that the memos issued by respondent No. 4 to the petitioner are malafide. We do not find any reason to interfere with the action taken by respondent No. 4.

(14) In view of the discussion above, we hold that the writ petition is devoid of any merits and deserves to be dismissed. We accordingly dismiss the writ petition with costs. Costs are quantified at Rs. 1,000.00.