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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Judgment Reserved: 12.04.2017*

*Judgment Pronounced: 23.5.2017*

+ W.P.(C) 10392 OF 2016

SRISHTI

..... Petitioner

Through Mr. Anuj Aggarwal, Advocates.  
versus

GOVT OF NCT OF DELHI AND ORS

..... Respondent

Through Mr. Satyakam, ASC with Mr. Arab  
Singh, Advocate for GNCTD.

**CORAM:**

**HON'BLE MR. JUSTICE SANJIV KHANNA**

**HON'BLE MS. JUSTICE ANU MALHOTRA**

**JUDGMENT**

: **ANU MALHOTRA, J.:**

1. The petitioner Ms. Srishti d/o Sh. Mukesh Gupta worked as a Trained Graduate Teacher (TGT) (English) teacher on contractual basis in the schools of the Directorate of Education, Government of NCT of Delhi under the Sarva Shiksha Abhiyan (SSA) scheme, the details of which are as under:-

<b><i>Sl. No.</i></b>	<b><i>Appointment letter / Agreement</i></b>	<b><i>School</i></b>	<b><i>Period and rate of remuneration</i></b>
(i)	Appointment letter / Agreement dated 03.09.2012	SKV, Aya Nagar, New Delhi - 110047 (School I.D.-1923063)	w.e.f. 01.09.2012 to 31.03.2013 at a consolidated remuneration of

			Rs.15,000/- per month and continued as such in the said school till 10.05.2013
(ii)	Appointment letter / Agreement dated 04.09.2013	SKV No. 2, Mehrauli, New Delhi - 110030 (School I.D.-1923079)	w.e.f. 04.09.2013 to 31.03.2014 at a consolidated remuneration of Rs.17,500/- per month and continued as such in the said school till 09.05.2014
(iii)	Appointment letter / Agreement dated 15.07.2014	Government Co-Ed. Sr. Sec. School, Sanjay Colony Bhatti Mines, New Delhi - 110074 (School I.D.-1923026)	w.e.f. 15.07.2014 to 31.03.2015 at a consolidated remuneration of Rs.27,800/- per month and continued as such in the said school till 08.05.2015

2. A circular dated 15.05.2015 was issued by the Education Department, Directorate of Education, Delhi declaring that the SSA would engage services of contract teachers for the year 2015-2016 after the summer vacation.

3. However the petitioner's candidature for re-engagement for the post of TGT (English) teacher was rejected in terms of circular dated 09.07.2015 issued by the Joint Director (Planning), Government of NCT of Delhi. The petitioner challenged non-renewal of the contract for the period 2015-2016 before the Central Administrative Tribunal (CAT), Principal Bench, New Delhi vide O.A. No. 2708/2015, which was disposed of with directions to

the respondents to consider the legal notice dated 21.07.2015 issued by the petitioner and to pass an appropriate speaking and reasoned order within a period of four weeks from the date of receipt of the copy of the order. The petitioner being aggrieved challenged the said order dated 28.07.2015 of the Central Administrative Tribunal (CAT), Principal Bench, New Delhi vide W.P. (C) 8040/2015 before this Court, which was disposed of vide order dated 24.08.2015 with directions to the respondent no. 1 to pass an speaking order within 10 days from the date of the order.

4. Vide Order no. 1281-1286 dated 09.09.2015, the respondent no.4 i.e. the Deputy Director of Education-South/DPO-SSA rejected the candidature of the petitioner (Registration I.D. 20142004009) for appointment on the post of TGT (English) teacher on contract in the SSA for the academic year 2015-2016 and vide order dated 10.09.2015, the respondent no. 2 i.e. the State Project Director of the Education Department also rejected the claim of the petitioner seeking to be appointed as a TGT (English) teacher or as TGT (Social Science) teacher.

5. The petitioner preferred O.A. No. 4002/2015 before the Central Administrative Tribunal, Principal Bench which vide the impugned order dated 12.09.2016 dismissed the prayers and thus the petitioner assails the same vide the present W.P.(C) No.10392/2016.

6. The Central Administrative Tribunal, Principal Bench vide the impugned order, inter-alia, observed that the petitioner had been re-employed for the year 2015-2016 and her term expired on 31.03.2016. This was refuted by the petitioner vide *para K* in the '*grounds*' of her petition, whereby she had submitted never being re-engaged and being completely unemployed. Vide the impugned order, it was held that the petitioner did not possess requisite qualification as prescribed in the Recruitment Rules, which provided that for the post of TGT (English), the applicant ought to have studied the concerned subject at least for two years, which was not so in her case.

7. The undisputed facts which emerge from the record are that the petitioner completed her class 10 from CBSE in the year 2002 and had studied English as a subject and secured 77 marks. She had also studied English in her class 12 from CBSE in the year 2004 and secured 85 marks. She had graduated in B.A. (Hons.) in Sociology in the year 2007 and during the course, she had studied English in the first year because that was the only option available to her at that time and as she was pursuing a Honours Course in Sociology. Therefore, she could not study any other subject (i.e. other than the subject in which the Honours course was done) for more than one year. Thereafter in the year 2009 she completed B.Ed with English as

one of the teaching subject from Guru Gobind Singh Indraprastha University. In the year 2010, she obtained the degree of M.A. (English) from the Indira Gandhi National Open University (IGNOU) and thus appeared in the CTET examination in the year 2011 and thereafter, she completed her M.Ed. examination from Jamia Millia Islamia University in the year 2012.

8. Though, she was appointed as TGT (English) teacher on contractual basis for the periods as detailed in para no. 1, however, in the year 2015 she was not reengaged in view of the circular dated 09.07.2015. The said circular reads to the effect as under : -

***“Sub:Engagement of Guest Teacher – Clarification regarding Recruitment Rules.***

***1. This branch has been receiving references from DDEs/HOSs and Guest teachers petitioners, seeking clarification regarding recruitment rules with special reference to study of a particular subject in all the three years of graduation for consideration as Guest Teacher TGT category.***

***2. This matter has been examined in the Directorate of Education and it is now clarified that in respect of candidates, who have studied a given subject in only two years of graduation but studied the same subject at the Post Graduation level must be considered as suitable candidates for engagement of guest teachers”. This matter was decided in the Hon’ble High Court of Delhi judgment dated 07.08.2013 in the case of “Directorate of Education & Anr. Vs. Neelam Rana; (W.P.(C) No. 575 of 2013).”***

Thus, the petitioner having not studied English as a subject for two (2) years of her graduation though she had done her post-graduation in English (M.A.

(English) from the Indira Gandhi National Open University (IGNOU), she was not re-engaged for the academic year 2015-2016. It was stated vide the impugned rejection order no. 1281-1286 dated 09.09.2015 that the petitioner's candidature for re-engagement for the post of TGT (English) teacher had been rejected in implementation of the verdict of this Court dated 07.08.2013 in the case of *Directorate of Education and Anr. Vs. Neelam Rana; (W.P. (C) No. 575 of 2013) decided on 07.08.2013*. The petitioner submitted before the Central Administrative Tribunal that this verdict in *Neelam Rana (supra)* applied to her and she was entitled to be appointed in the year 2015-2016 as a TGT (English) teacher on contractual basis in SSA in the schools of the Directorate of Education, Government of NCT of Delhi and that though she had studied English as such in the first year only in the graduation B.A. (Hons.) in Sociology subject, she had thereafter completed her post graduation in M.A. (English) and was duly qualified for the post of TGT (English) teacher as well as TGT (Social Science) teacher.

9. The respondents before the Central Administrative Tribunal submitted that as the petitioner had previously accepted only the post of TGT (English) teacher, she was to be considered only for the post of TGT (English) teacher for the year 2015-2016 and she had opted for in the

previous year and not of TGT (Social Science) teacher in terms of Circular No. DE18-2(H)/plg/2015-16/1191/1206 dated 09-07-2015, which vide clause-2 clarified that only those candidates who had studied a given subject in only two years of graduation and had studied the same subject at the Post Graduation level could be considered as suitable candidates for engagement as graduate teacher also but that the petitioner had studied English only for one year at the Graduation level and thus her candidature to be appointed as TGT (English) was not acceded to, nor was her request for appointment to the post of TGT (Social Science) accepted.

10. Vide the impugned order assailed herein by the petitioner, it was observed by the Principal Bench of the Central Administrative Tribunal vide paragraph nos. 21 to 25 as follows : -

***“21. Therefore, in the instant case also, it is clear that when the RRs provided that for the post of TGT (English), the applicant ought to have studied the concerned subject at least in two years of her studies, which was not there, and the Hon'ble Supreme Court has held that unless the Graduate qualifications are in the same faculty, the higher qualification in that faculty cannot be stated to presuppose that the acquisition of the lower qualifications prescribed for the post shall also be sufficient for the post, as was laid down by the Hon'ble Apex Court in Jyoti K.K. and others vs. Kerala Public Service Commission and others (2010) 15 SCC 596.***

***22. Therefore, in the instant case, when the applicant's Graduation qualification was B.A. (Hons.) in Sociology, and thereafter she completed an M.A. in***

*English, it certainly cannot be said to be a higher qualification in the same faculty, since the faculty of Social Studies and the faculty of English are not in the same discipline.*

*23. Therefore, drawing sustenance from the Hon'ble Supreme Court's judgments in the case of P.M. Latha and another vs. State of Kerala and others (2003) 3 SCC 541, and in Jyoti K.K. and others vs. Kerala Public Service Commission and others (supra), apart from the other judgments cited above, following the law as laid down by the highest Court of the land, we are unable to follow the law as declared by the Hon'ble Delhi High Court in case of Directorate of Education & Anr vs. Neelam Rana (supra), and in the case of Mrs. Manju Pal vs. Govt. of NCT of Delhi (supra), both of which were not determinations on the merit of the cases, and also the judgment in the case of Yogesh Dutt vs. Director of Education and Others (supra).*

*24. Moreover, in this case, the cause of action in filing this OA had itself disappeared soon after the filing of the OA, as recorded in the orders of the Hon'ble Chairman, CAT dated 01.02.2016, when a submission had been made before His Lordship's Court that the applicant had already been re-employed for the year 2015-16, and her term was going to expire on 31.03.2016. With that, the prayer at Para-8(iii), itself did not survive at all thereafter.*

*25. Therefore, since we find no merit in the other remaining prayers as made in the OA, accordingly the OA is dismissed, but there shall be no order as to costs.”*

11. Notice of the petition was issued to the respondents in terms of order dated 22.11.2016 and arguments were addressed on behalf of the petitioner by the learned counsel appearing for the petitioner Mr. Anuj Aggarwal and on behalf of the respondents by the learned Additional Standing Counsel Mr. Satyakam and Mr. Arab Singh.



12. The petitioner reiterated through the course of submissions made through the petition and orally that the verdict in *Neelam Rana (supra)* squarely applied to the facts of her case and in terms of the said judgment, she was entitled to be appointed as TGT (English) teacher on contractual basis in SSA in the schools of the Directorate of Education, Government of NCT of Delhi.

13. Reliance was placed on behalf of the petitioner on the verdicts of this court, which are as under : -

- (a) *Mrs. Manju Pal Vs. Govt. of National Capital Territory of Delhi & Anr., [2002 (61) DRJ 58]; decided on 11.09.2001;*
- (b) *Sh. Yogesh Dutt Vs. Directorate of Education & Ors. in W.P. (C) No. 11470/2009; decided on 15.07.2013;*
- (c) *Mahesh Kumar Vs. Directorate (Medical). Delhi E.S.I. Corporation, New Delhi & Ors. in W.P. (C) No. 1743/2016; decided on 15.03.2017;*
- (d) *Government of National Capital Territory of Delhi Vs. Monika Sharma in W.P. (C) 8089/2015; decided on 26.05.2016;*
- (e) *Government of NCT of Delhi and Ors. Vs. Sachin Gupta in W.P. (C) Nos. 1520/2012 & 575/2013; decided on 07.08.2013; and*
- (f) *On the verdict of Rajasthan High Court (Jaipur Branch) (D.B.) Bajrang Lal & Ors. Vs. State of Rajasthan & Ors. in D.B. Special Appeal (Writ) Nos. 21, 53 and 126/2016; decided on 05.08.2016; and  
on the verdicts of the Hon'ble Supreme Court in CWP No.13368/2015, Parvaiz Ahmad Parry vs. State of Jammu & Kashmir & Ors. decided on 06.11.2015 and in State of Punjab Vs. Anita in Civil Appeal Nos. 7983-7986 and 7970-7971 of 2009; decided on 24.09.2014,*

to submit and contend that in the instant case the petitioner's candidature, -she being duly eligible and qualified to be appointed as TGT (English) teacher as well as TGT (Social Science) teacher on contract basis under the services of SSA in the schools of the Directorate of Education, Government of NCT of Delhi and was appointed as such for the academic years 2012-2013, 2013-2014 and 2014-2015 and who was qualified to be re-engaged on contractual basis during the year 2015-2016 in terms of the circular dated 15-05-2015 issued by the State Project Director of the Education Department, could not have been rejected for the year 2015-2016 for re-engagement.

14. The Circular dated 15.05.2015 of the Directorate of Education reads to the effect is as under : -

***“Sub:Engagement of Subject specific teacher (TGT) and Primary Teachers working under SSA on contractual basis during the year 2015-16***

***The Sarva Shiksha Abhiyan SSA has been engaging subject specific teachers (TGT) and Primary Teachers on contractual basis as a temporary measure against the increased enrollment of students in the Govt. Schools. The engagement of the said teachers are discontinued when the schools are closed for summer vacation as their services are no longer required once vacation gets declared.***

***SSA would re-engage the same set of contract teachers for the session, once the school re-opens after the summer vacation. In view of the order of Govt. of NCT***

*of Delhi No. 19(01)/2014/S-IV223-224 dated 16.02.2015, the contract teachers, preferably be engaged in the same schools, subject to the availability of vacancies (based on the students enrolment) and in case of non-availability of vacancy in the same school, the contract teacher would first be tried to be posted in the some other school within same district. Further, the contract teachers who were found to be ineffective in their work and indulging in derelictions of duty may not be considered for re-engagement.*

*In view of above, all the DPOs/DDEs are hereby directed to take fresh agreement from all the contract teachers whose initial contract was only up to 31.03.2015 but was extended up to 10.05.2015 vide order no. F.DE(29)/UEEM/SSA/ Access/2015/9270 85 dated 26.03.2015. Their terms of contract will be w.e.f. 13.07.2015 to 31.03.2016 since HRD approves the engagement of contract teachers for 10 months only.”*

15. On behalf of the respondents, through written submissions, it was submitted that a Master's degree in the same subject does not fulfill the requirement of a Bachelor's degree or Master's degree, followed by Bachelor's degree with two years study in the same subject, followed by a Master's degree in the same subject and that the petitioner having studied the concerned subject i.e. English at the Bachelor's level only as a qualifying subject and not as an elective subject, the same is irrelevant to ascertain the eligibility for the post of TGT English Guest Teacher for the SSA.

16. It was submitted further on behalf of the respondents that the verdict in ***Neelam Rana*** case (supra) was in the peculiar facts and circumstances of that case and cannot be held to have universal applicability and was based on the fact that the department in the said case had failed to place any material before the Court to show that the person who studied English at graduate level would be better equipped to teach English to students vis-à-vis a person who had obtained a Post Graduate degree in English language.

17. Reliance was also placed on behalf of the respondents on the verdict of this Court in ***Union Public Service Commission vs. Dheerender Singh Paliwal*** 2010 (119) DRJ 662 (DB) where a student who was required to furnish his qualifications both at the graduation level and Master's level in Zoology did not furnish the qualification at the graduation level and only furnished the qualification at the Masters level, the petition filed by the UPSC urging that it was possible to switch disciplines at the post graduation level due to interdisciplinary relationship whereby it was possible to obtain a Masters degree in a discipline had no direct relationship with the same discipline at the graduation level was accepted.

18. It was thus submitted on behalf of the respondent that there is no such rule of universal applicability that if a person had acquired higher qualification in the same subject, such qualification can certainly be stated to

presuppose the acquisition of the lower qualification prescribed as a proposition of universal application.

19. Reliance was also placed on behalf of the respondents on the verdict of this Court in *Bhawna Singh vs. Govt. of NCT of Delhi and Ors.* 103 (2003) DLT 155 wherein it was held that the candidate who had not studied Hindi at the secondary or senior secondary level and had studied Hindi as a subsidiary subject while doing B.A. (Hons.) in English, candidate could not be stated to have acquired the requisite qualification. It was also submitted on behalf of the respondents that a candidate must possess the statutory prescribed qualification and the said prescription is in the preserve of the executive and in particular of the experts who determine such requirements and that the laws ordinarily decline to interfere with such determination. Reliance was also placed on behalf of the respondents on the verdict of the Supreme Court in *State of Punjab Vs. Anita* (2015) 2 SCC 170 to similar effect. It has further been submitted on behalf of the respondents that the prescribed qualification in the instant case required study of a given subject for two years in graduation and study of the same at the post graduation level was not sufficient for engagement. It was submitted by the Department that the observations of this Court in *Neelam Rana's* case (supra) had been adhered to and thus as the petitioner does not fulfill the

same, she is entitled to no relief, especially, as the petitioner has not studied English as an elective subject and had only studied the same as a subsidiary and qualifying subject. It was submitted on behalf of the respondents that the writ petition be dismissed as there is no occasion for interference in the verdict of the impugned judgment of the Tribunal.

20. It is essential to observe that the Recruitment Rules for the post of Trained Graduate Teacher (TGT) vide notification No. F-2(4)/72.Services II, Dated : 5.7.1972 and amended Vide No. F. 27 (8)/88-Edn./1858-63, Dated 11-12-1991 and as on 01-10-1999, provide as follows:-

- |  |  |
|--|--|
| 1. Name of the post  | : <b>Trained Graduate Teacher (TGT)</b><br>1. <b>English</b> 2. Mathematics<br>3.Social Science 4.Physical/Natural Science   |
| 2. No. of posts  | : 18476 (Subject to variation dependent on work load)  |
| 3. Classification  | : Group 'C', Non-Gazetted, Non-Ministerial (Group B amended as per V C.P.C.)   |
| 4. Scale of Pay  | : Rs. 1400-40-1600-50-2300-EB-60-2600 (Pre-revised) and Rs.5500-9000 (Revised as per V C.P.C.)   |
| 5. Whether selection post or non-selection posts   | : Selection  |
| 6. Age limit for direct recruits   | : Below 30 years (relaxable upto 40 years in case of emale candidates and relaxable for employees of Delhi Admn. Upto 40 years for General and 45 years for SC/ST candidates.  |
| 7. Whether benefit of years of service: admissible under rules 30 of CCS (Pension Rules, 1972. | : No   |
| 8. Educational and other qualifications: required for direct recruits                          | : <b>I, A Bachelor's degree (Pass/Hons.) from a recognized University or equivalent having secured as least 45% marks in aggregate in two school subjects of which at least one out f the following should have been at the elective level :</b> |

(a) English, (b) Mathematics, (c)  
Natural/Physical Sc.,  
(d) Social Science.

**Note:** As per policy the definition of elective R/Rs has been framed as that the candidates should have studied the main subject concerned as mentioned in the R/Rs at least 100 marks each in all parts/ years of graduation. The election word may also include main subject as practiced in different universities.

Circulated vide No. F-DE.3(42)/E.III/99/1688-1699, dt.13.03.2000)

**Note:** Main subjects for (i) TGT (natural Sc./Physical Sc.) shall be Physics, Chemistry, Biology, Botany and Zoology).

(ii) TGT (Social Sc.) : History/Political Sc./Economics/ Business Studies/Sociology/Geography/Psychology.

Provided further that the requirement as to minimum of 45% marks in the aggregate at graduation level shall be relaxable in case of (a) candidates who possesses a post graduate qualification in any of the teaching subjects listed above (b) belonging to SC/ST, (c) physically handicapped category.

II. Degree/Diploma in training Education or SAV Certificate.

III. Working knowledge of Hindi language at least upto Secondary Level or equivalent.

Provided that Asstt.

Teachers (from MCD/Dte. Of Edu.) and Lab. Asstt. Shall not be required to have received 45% marks in aggregate in Bachelor's degree (Pass/Hons.) or equivalent.

9. Whether age and qualifications : Age – No  
(Educational) prescribed for direct Educational Qualifications – Yes.  
recruits will apply in the case of  
promotes.

10. Period of probation if any, : Two years.

11. Method of recruitment whether by: 1. By promotion from Assistant Teacher of MCD  
and direct rectt. or by promotion or by

Dte. Of Edn. Having a minimum of five years regular deputation/transfer & percentage of service as Asstt. Teacher in proportion to the actual the vacancies to be filled by strength

of both the cadres as on the 31<sup>st</sup> March of the various methods. Year in which recruitment is made failing which by direct recruitment – 70%.

2. By promotion from Laboratory Assistant of the Directorate of Education having a minimum of 5 years regular service as Laboratory Assistant failing which by direct recruitment. – 05%.

3. By direct recruitment – 25%.

**Note :** The eligibility of personnel of feeder cadre will be determined with reference to qualifications possessed by them as on 1<sup>st</sup> January of the year in which selection is made.

12. In case of rectt. by promotion/ deputation/transfer,grades from which promotion/deputation transfer to be made. : Promotion:  
1. Assistant Teachers of Schools under Dte. Of Education.  
2. Assistant Teacher of MCD Primary Schools.  
3. Laboratory Asstts. Of Schools under Dte. of Education .
13. if a DPC exists, what is its : Group-B : DPC Notified as for other PGRT's mentioned Composition.
14. Circumstances in which U.P.S.C. : N.A.”  
is to be consulted in making recruitment.

which brings forth that the educational qualification for a TGT teacher in English is Bachelor's degree (Pass/Hons.) from a recognized University or equivalent having secured as least 45% marks in aggregate in two school subjects of which at least one out of the English, Mathematics, Natural Science/Physical Science had been at the elective level. As per the **Note** thereto it has been indicated that as per the policy the definition of R/Rs has been framed as that the candidates should have studied the main subject concerned as mentioned in the R/Rs at least 100 marks each in all parts/ years of graduation. The word '*elective*' may also include main subject as practiced in different universities.



21. It is essential to observe that the issue involved in the present petition as to whether the petitioner qualified to meet the eligibility conditions/qualifications prescribed for the post of TGT (English) so that she could be re-engaged for the SSA for the year 2015-16 in as much as though she was a post graduate in English having completed her M.A. in English from IGNOU in the year 2010 for which a degree dated 31.08.2010 was awarded to her, she had done her graduation in the year 2007-08 in B.A.(Hons.) in Sociology in which she had studied English only in the first year though she had also studied English in Standard 10<sup>th</sup> and 12<sup>th</sup> in the years 2002 and 2004 respectively, - or whether she was not qualified and eligible for the post of the TGT (English) in as much as she did not have English as a subject for two years in Graduation despite the factum that she had done M.A. in English, - on the basis of the catena of verdicts of the Apex Court and of this Court is virtually settled.

22. This is so in as much as in ***Mahesh Kumar vs. Directorate (Medical), Delhi E.S.I Corporation New Delhi & Ors. in W.P. (C) No. 1743/2016; decided on 15.03.2017***, a verdict of the Division Bench of this Court in which the petitioner therein had essential eligible qualification prescribed for the post of the Librarian Grade-I was contended by the Department to fall short of the eligibility for appointment to the lower post of Librarian Grade-

II in as much as the candidate therein had a one year degree in Library Science after graduation and had not done a two year diploma in Library Science after matriculation, rather than application of pedantic and literal interpretation which would result in absurdities and where the strict approach would be counterproductive and would be distinctly unjust and unfair, it was held that a pragmatic and realistic interpretation for the words “essential qualification” has to be adopted. It is essential to advert to paragraphs 11 to 21 of the said verdict which are reproduced as under:

*“11.It is in these circumstances, we have to examine and consider the stand of the ESI Corporation that the petitioner does not meet and fulfill the essential eligibility qualification prescribed for Librarian Grade-II. If we accept the stand of the respondent ESI Corporation, the petitioner would fullfil and meet the eligibility qualifications for appointment as Librarian Grade-I, but would fall short and would not be eligible for appointment to the lower post of Librarian Grade-II.*

*12. In Commissioner of Income Tax, Bombay and Ors. Vs. Podar Cement Pvt. Ltd. and Ors. (1997) 5 SCC 482, after referring to State Vs. S.J. Choudhary (1996) 2 SCC 428, and Statutory Interpretation by Francis Bennion, the Supreme*

*Court elucidated upon the need to update the constructions of the words of a statute. The Court in S.J. Choudhary (supra) had observed that the interpreter should presume that the Parliament intended the Statute to be applied at any future time in such a way as to give effect to its true original intention.*

*13. In the present factual matrix, noticing that the Rules are archaic, we would adopt a pragmatic and realistic interpretation for the words "essential qualification", rather than follow and apply a pedantic and literal interpretation which would result in absurdities. We would hesitate and not re-write the Rules, but can interpret the essential qualification with a certain degree of flexibility to adapt the pre-dated rules in the contemporary context. A stricter approach would not only be counterproductive, but would be distinctly unjust and unfair. The fact that the authorities had not amended the rules over 37 years would indicate that, they perceived that the Rules were broad enough in their application to account for changes and modifications in the educational pattern. We must therefore interpret the Rule with such modification of the meaning of the language of a statute as is necessary to give effect to the*

***legislative intent behind its enactment. The Recruitment Rules should be to read as laying down minimum educational qualification and not as postulating or stating that a candidate, who has higher qualifications, would be ineligible for he is overqualified. Over qualification may be contra indicative for some posts/ Recruitment Rules, but not in this case.***

14. As we are taking a different view from the one expressed by the Tribunal, we would like to refer to the reasoning and the judgments in the impugned order. The Tribunal posed the question; whether an applicant who possesses higher qualification than the required qualification or equivalent qualification prescribed, would be eligible and has answered the said question in negative i.e. if the applicant possesses higher qualification, he would be disqualified. It has been held that possessing higher qualification does not mean that the candidate possesses the minimum prescribed qualification. One year's degree course in Library Information Science obtained by the petitioner cannot be treated as equivalent to a diploma in Library Science of two years after matriculation.

15. We would begin by referring to the decision in *Yogesh Kumar and Ors. Vs. Government of NCT of Delhi & Ors.* (2003) 3 SCC 548, wherein it has been held that:- "5. The division bench of the Delhi High Court in the impugned judgment has dealt with the above two arguments in great detail. In our considered opinion it has rightly come to the conclusion that B.Ed. qualification, although a well recognised qualification in the field of teaching and education- being not prescribed in the advertisement, only some of the B.Ed. candidates who took a chance to apply for the post cannot be given entry in the field of selection We also find that the High Court rightly came to the conclusion that teacher training imparted to teachers for B.Ed. course equips them for teaching higher classes. A specialized training given to teachers for teaching small children at primary level cannot be compared with training given for awarding B.Ed. degree. Merely because primary teachers can also earn pro motion to the post of teachers to teach higher classes and for which B.Ed. is the prescribed qualification, it cannot be held that B.Ed. is a higher qualification than TTC. Looking to the different nature of TTC qualification the High Court rightly held that it is not comparable with B.Ed. degree qualification

*and latter cannot be treated as higher qualification to the former. XXX XXX XXX 8. This last argument advanced also does not impress us at all. Recruitment to Public Services should be held strictly in accordance with the terms of advertisement and the recruitment rules, if any. Deviation from the Rules allows entry to ineligible persons and deprives many others who could have competed (sic competed) for the post. Merely because in the past some deviation and departure was made in considering the B.Ed, candidates and we are told that was so done because of the paucity of TTC candidates, we cannot allow a patent illegality to continue. The recruitment authorities were well aware that candidates with qualification of TTC and B. Ed. are available yet they chose to restrict entry for appointment only to TTC pass candidates. It is open to the recruiting authorities to evolve a policy of recruitment and to decide the source from which the recruitment is to be made. So far as B.Ed. qualification is concerned, in the connected appeals [CA No. 1726-28 of 2001] arising from Kerala which are heard with this appeal, we have already taken the view that B. Ed. qualification cannot be treated as a qualification higher than TTC because the natures of training imparted for grant of*

*certificate and degree are totally different and between them there is no parity whatsoever. It is projected before us that presently more candidates available for recruitment to primary school are from B.Ed. category and very few from TTC category. Whether for the aforesaid reasons, B.Ed. qualification can also be prescribed for primary teachers is a question to be considered by the authorities concerned but we cannot consider B. Ed. candidates for the present vacancies advertised as eligible. In our view, the division bench of the Delhi High Court was fully justified in coming to the conclusion that B. Ed. candidates were rightly excluded by the authorities from selection and appointment as primary teachers. We make it clear that we are not called upon to express any opinion on any B. Ed. Candidates appointed as primary teachers pursuant to advertisements in the past and our decision is confined only to the advertisement which was under challenge before the High Court and in this appeal."*

*The issue, which had arisen in the aforesaid case, was whether candidates who had a B. Ed. Degree were eligible as per the Recruitment Rules, which had stipulated TTC qualification. What is important and relevant is the finding of the*

*Supreme Court in paragraph 5 quoted above. It was held that the TTC qualification was not comparable with the B. Ed. Degree qualification. Consequently, the B. Ed Degree cannot be treated as a higher qualification. The said finding has been reiterated in paragraph 8 with reference to the connected appeals arising from the State of Kerala wherein it was held that B. Ed. Qualification cannot be held to be a higher qualification than TTC because the nature of training imparted in the two courses was totally different and there is no parity between the two. (We have subsequently referred to the decision in P.M. Latha and Anr. Vs. State of Kerala and Anr. (2003) 3 SCC 541).*

*16. Similarly, in Dilip Kumar Ghosh and Ors. Vs. Chairman & Ors. (2005) 7 SCC 567, the appellants before the Supreme Court were holders of B. Ed. Degree, but were declared ineligible for the post of Primary School Teacher, for the Recruitment Rules/advertisement had specifically prescribed JBT/PTTC certificate as the mandatory qualification. In paragraph 10, the Supreme Court observed that the B. Ed. curriculum did not have subjects like Child Psychology and the former course was generic in nature. The JBT/PTTC certificate was specifically for*



*training candidates to teach in primary schools. The Supreme Court drew a distinction between teaching students at a primary level up to class IV and those in the higher classes, emphasising that for teaching at the primary level, knowledge of Child Psychology and development at a tender age was an essential pre-requisite. This judgment also refers to Yogesh Kumar (supra) and an earlier decision in P.M. Latha (supra). The latter decision dealt with candidates with B. Ed. Degree, who had been held to be eligible as lower primary and upper primary teachers in Government schools on the ground that they had B. Ed., a higher qualification than the TTC. The Supreme Court has held that B. Ed. Degree holders cannot necessarily be held to be holding qualification suitable for appointment as teachers in primary schools. Further, whether the recruitment should be from the candidates with TTC certificate or B.Ed. qualification was a matter of recruitment policy and in the said case there was sufficient logic for the authorities to prescribe qualification for appointment as TTC only*

*17. The aforesaid decisions, in our opinion, would not be applicable. In the said decisions, it was held that the B.Ed. Degree cannot be treated and equated with TTC or TBT or PTTC as their*

*curriculum and course material was entirely different. The latter were specific certificate courses for teaching at the primary level, whereas the B.Ed. is a general teaching course for teaching at higher levels.*

*18. We have, in paragraph 13 above, observed that over qualification may be contraindicated for some posts but not in the present case. Lest there be any confusion and uncertainty, we would elaborate on the said aspect. Recruitment Rules and Executive Instructions are framed to prescribe minimum eligibility qualifications and requisite experience. This ensures transparency and uniformity, and curtails the scope of discretion and nepotism in the selection process. There may be certain posts where over qualification may amount to disqualification or ineligibility, for such candidates would be unsuitable for the nature of work involved as they would not require the skill and qualifications the over qualified possess. This is not the position in the present case.*

*19. Educational curriculum and subjects are constantly evolving with changes and modifications to suit the present day needs. Therefore, the eligibility requirements should also*

*be updated as and when required to fit the present day needs and context. Courts cannot prescribe the eligibility or experience qualifications as these are matters of policy best left to the Executive. However, when the recruitment rules are not modified and updated to keep up with the times, the Courts may intervene to interpret the antiquated provisions with a degree of flexibility to prevent injustice and ensure that a more qualified and better suited candidate is not denied selection on account of senescent rules.*

*20. A Division Bench of this Court in Manju Pal Vs. Government of National Capital Territory of Delhi and Anr. (2002) 61 DRJ 58, had dealt with a case of appointment to the post of Assistant Primary Teacher. The essential qualifications prescribed for the said post were that the candidate should have studied Hindi at the Secondary or Senior Secondary level. The petitioner therein had a Bachelor of Arts Degree in Hindi but was declared ineligible for the post by the authorities on the ground that it was a higher qualification. The Court rejected the stand of the authorities observing that a candidate having higher qualification like a B.A. or M.A. Degree in Hindi could not be declared as less qualified or lacking competence, for it had not been shown that*

*the study of Hindi at the Secondary or Senior Secondary level was more helpful for teaching primary level students.*

*21. Reference must also be made to the decision of dated 26th May, 2016 of a Division Bench of this Court in W.P. (C) 8089/2015 titled Government of National Capital Territory of Delhi Vs. Monika Sharma. The respondent therein had been denied appointment as a Post-Graduate Teacher (Sociology) despite having a B.El.Ed and M.Ed Degree in Sociology, for the reason that B.El.Ed degree could not be equated with a B.Ed degree which was the essential qualification. Dealing with the question of over qualification, the Division Bench observed as under:- "18. In Jyoti K.K. and Ors. vs. Kerala Public Service Commission & Ors. (supra), the Supreme Court observed that if a person had acquired higher qualifications, such qualifications would pre-suppose acquisition of lower qualification. **A degree holder would be eligible to apply for a post, where the minimum qualification prescribed was a diploma holder. when the position was not clear and the rules did not per se disqualify holders of the higher qualifications, it would be appropriate to hold that those with the higher qualifications would be eligible. In Chandrakala Trivedi vs. State of***

*Rajasthan and Ors. (2012) 13 SCC 129, the Supreme Court reversed the decision of the High Court observing that the expression 'equivalent' must be given a reasonable meaning. Usage of the expression 'equivalent' means that there are some degrees of flexibility or adjustment which do not lower the stated requirement. Equivalent does not mean exact. In this case, the candidate was declared ineligible for appointment as a teacher for primary and upper primary schools because she had not passed the Higher Secondary/Senior Secondary Examination, the basic qualification for the post in question. She was considered eligible as she had cleared higher examinations. Recently, the Supreme Court in CWP No. 13368/2015, Parvaiz Ahmad Parry vs. State of Jammu & Kashmir & Ors. decided on 6th November, 2015 has held that while the minimum qualification prescribed for the post of J&K Forest Service Range Officers Grade-I (Forest) was a B.Sc (Forestry) or an equivalent degree from any University recognized by the ICAR, a candidate with a higher qualification was equally eligible. Thus a B.Sc candidate with Forestry as a major subject and M.Sc. in Forestry was eligible. It was observed:- "25. In our view, if a candidate has done B.Sc. in Forestry as one of*

*the major subjects and has also done Masters in the Forestry, i.e., M.Sc. (Forestry) then in the absence of any clarification on such issue, the candidate possessing such higher qualification has to be held to possess the required qualification to apply for the post. In fact, acquiring higher qualification in the prescribed subject i.e. Forestry was sufficient to hold that the appellant had possessed the prescribed qualification. It was coupled with the fact that Forestry was one of the appellant's major subjects in graduation, due to which he was able to do his Masters in Forestry."*

*21. A Full Bench of the Punjab and Haryana High Court in CWP No. 451/2008 Manjit Singh vs. State of Punjab & Ors. after extensively referring to case law, has held that a candidate possessing a higher degree in the same line cannot be denied consideration for selection, though he does not hold the lower qualification."*

(emphasis supplied)

and which brings forth the entire gamut of law as laid down in *Yogesh Kumar and Anr. Vs. Govt. of National Capital Territory (2003) SCC 548*, *Dilip Kumar Ghosh & Ors. vs. Chairman & Ors. (2005) 7 SCC 567* and the verdict of *Jyoti K.K. & Ors. vs. Kerala Public Service Commission (2010)*

**15 SCC 596**, the verdict of the Division Bench of this Court in ***Mrs. Manju Pal vs. Govt. of National Capital Territory of Delhi & Anr. [2002 (61) DRJ 58]; decided on 11.09.2001*** and verdict of the Full Bench of the Punjab and Haryana in CWP 451/2008 ***Manjit Singh vs. State of Punjab & Ors.***, which lay down that if a person has acquired a higher qualification, such qualification would ordinarily pre-suppose acquisition of a lower qualification.

23. Though, undoubtedly in view of the verdict of ***Dilip Kumar Ghosh & Ors. vs. Chairman & Ors. (2005) 7 SCC 567***, a candidate without a B.Ed. degree was held to be ineligible for the post of primary teacher though there was a superior qualification of M.Ed. available with the said candidate, for the reason that teaching a child at a tender age requires knowledge of child psychology and different teaching techniques rather than teaching an adult and this as laid down in ***Mahesh Kumar*** (supra) vide paragraph 18 that over qualification may be contraindicated for some posts, the verdict in the said case does not apply to the facts of the instant case before us. The facts of the instant case are not in *pari materia* with the facts of the case of ***Dilip Kumar Ghosh and Ors.*** (supra) and for a person who has done post graduation in English, he/she has essentially necessary expertise, understanding and knowledge of English, as a graduate would in the said subject. This is so, in

as much as, in the facts and circumstances of the instant case the petitioner has studied English in both Standard 10<sup>th</sup> and 12<sup>th</sup> and also while doing B.A.(Hons.) in Sociology, English being her subject for one year though not for two years as per the circular dated 15.05.2015 which, however, does not suffice in any manner to bring forth that the petitioner who had the qualification of M.A. in English could not be considered for selection and re-engagement to post of TGT (English) which she had been performing in the SSA during the years 2012-13, 2013-14, 2014-15.

24. In *Govt. of NCT of Delhi vs. Monika Sharma in W.P.(C) No. 8089/2015 decided on 26.05.2016*, the candidate who had a degree of Bachelor of Elementary Education (B.El.Ed.) from the University of Delhi and also had Masters degree in Education (M.Ed.) and was Master of Arts in Sociology was denied appointment as a PGT which she challenged and which was granted in her favour by the Central Administrative Tribunal and review was also dismissed, which was thus challenged by Govt. of NCT of Delhi to contend that she did not fulfill the requisite qualifications of having a B.Ed. and B.T. qualifications. It is essential to observe that reference was made vide paragraph 18 thereof to the decision of the Supreme Court in *Jyoti K.K. and Ors. vs. Kerala Public Service Commission & Ors. (supra)* and *Chandrakala Trivedi vs. State of*



***Rajasthan and Ors.*** (2012) 13 SCC 129 wherein it had been observed to the effect that the expression equivalent must be given a reasonable meaning and use for the expression ‘equivalent’ means there are some degrees of flexibility or adjustment which do not lower the stated requirement and that **equivalent does not mean exact.**

25. Vide the verdict of the Supreme Court in ***Parvaiz Ahmad Parry vs. State of Jammu & Kashmir & Ors in CWP No. 13368/2015 decided on 06.11.2015*** in which the appellant who had completed B.Sc. as one of the major subjects from Garhwal University and had also done Masters in the Forestry from the same University and who had passed the National Eligibility Test (NET) from the Indian Council of Agricultural Research (ICAR) in the year 2005-06 and who had been held ineligible for the post of Range Officer Grade-I (Forest) on the ground that he did not possess the prescribed qualification of B.Sc. (Forestry) or equivalent from any University recognized by the ICAR, was held eligible. Vide paragraph No. 22 to 25 of the said verdict, it was observed as follows:

*“22. As would be clear from the undisputed facts mentioned above, the minimum qualification prescribed for applying to the post of J & K Forest Service Range Officers Grade-I was "B.Sc. (Forestry) or equivalent from any University recognized by ICAR". It is not disputed that the appellant was to his credit a qualification of B.Sc. with Forestry as one of the major subjects and*

*Masters in Forestry, i.e. M.Sc.(Forestry), on the date when he applied for the post in question, which satisfied the eligibility criteria so far as the qualification was concerned.*

*23. We do not agree with the reasoning of the High Court that in order to be an eligible candidate, the appellant should have done B.Sc. in Forestry and since he had not done so, he was not considered as an eligible candidate. This reasoning, in our view, does not stand to any logic and is, therefore, not acceptable insofar as the facts of this case are concerned.*

*24. In our considered view, firstly, if there was any ambiguity or vagueness noticed in prescribing the qualification in the advertisement, then it should have been clarified by the authority concerned in the advertisement itself. Secondly, if it was not clarified, then benefit should have been given to the candidate rather than to the respondents. Thirdly, even assuming that there was no ambiguity or/and any vagueness yet we find that the appellant was admittedly having B.Sc. degree with Forestry as one of the major subjects in his graduation and further he was also having Masters degree in Forestry, i.e., M.Sc.(Forestry). In the light of these facts, we are of the view that the appellant was possessed of the prescribed qualification to apply for the post in question and his application could not have been rejected treating him to be an ineligible candidate for not possessing prescribed qualification.*

*25. In our view, if a candidate has done B.Sc. in Forestry as one of the major subjects and has also done Masters in the Forestry, i.e., M.Sc.(Forestry) then in the absence of any clarification on such issue, the candidate possessing such higher qualification has to be held to possess the required qualification to apply for the post. In fact, acquiring higher*

*qualification in the prescribed subject i.e. Forestry was sufficient to hold that the appellant had possessed the prescribed qualification. It was coupled with the fact that Forestry was one of the appellant's major subjects in graduation, due to which he was able to do his Masters in Forestry."*

*(emphasis supplied)*

24. The verdict of the Supreme Court in *State of Punjab Vs. Anita in Civil Appeal Nos. 7983-7986 and 7970-7971 of 2009; decided on 24.09.2014* vide para 14 thereof which is reproduced as under:-

*"14. It is no doubt true, that this Court held in the afore-stated judgment, that if a person had acquired higher qualifications in the same faculty, such qualifications can certainly be stated to presuppose the acquisition of the lower qualification. Possession of higher qualification would therefore, according to Learned Counsel, make a candidate eligible for the post, even though, the candidate does not possess the prescribed qualification. The question however, is whether the above position can be applied to the present case?"*

and the verdict of the Supreme Court in *Jyoti K.K. and Ors. vs. Kerala Public Service Commission & Ors.* (supra) lay down that if a person had acquired higher qualification, such qualification would ordinarily

certainly be stated to presuppose the acquisition of the lower qualification and that possession of a higher qualification would thus make a candidate eligible for the post, even though he did not possess the prescribed qualification though it has to be determined in the facts and circumstances of each case as to whether the parameters in *Jyoti K.K. and Ors. vs. Kerala Public Service Commission & Ors. (supra)* would apply and in these circumstances in the case of JBT/ETT teachers the higher qualifications were not sufficient. Such candidates would be unsuitable for the nature of work involved as they would not require the skill and qualifications the over qualified possess and for teaching primary students, knowledge of child psychology and development at a tender age is an essential pre-requisite. The verdict the Division Bench of this Court in *Govt. of NCT of Delhi & Ors. vs. Sachin Gupta in W.P. (C) Nos. 1520/2012 & 575/2013; decided on 07.08.2013* and *Directorate of Education and Anr. Vs. Neelam Rana; (W.P. (C) No. 575 of 2013) decided on 07.08.2013* observed vide para 49 to the effect:

*“In view of aforesaid authoritative pronouncements, we hold that respondent Neelam Rana is eligible for being appointed to the post of T.G.T. (English), particularly when the Directorate of Education has placed no material*

*before us to show that the person who has studied English at graduate level would be better equipped to teach English to students vis-à-vis a person to has obtained a Post Graduate degree in English language.”*

25. The ratio of the above referred verdicts makes it apparent that the petitioner in the present case who had studied English at the Post Graduate level and had studied it as one subject for one year in her B.A.(Hons.) in Sociology and also had studied English earlier and whose services were also availed of for the periods 2012-13, 2013-14, 2014-15, was eligible for being re-engaged to the post of TGT English in Sarv Sikhsha Abhiyan for the year 2015-16. The verdict of the Learned Single Judge of this Court in *Yogesh Dutt vs. Directorate of Education & Ors. in W.P. (C) No. 11470/2009; decided on 15.07.2013* is also to the similar effect.

26. The Principal Bench of the Central Administrative Tribunal vide its impugned judgment has placed reliance on the verdicts of the Apex Court in *P.M.Latha and Anr. Vs. State of Kerala and Ors.* (2003) 3 SCC 541 and *Jyoti K.K. and Ors. vs. Kerala Public Service Commission & Ors. (supra)*, and held that the petitioner was not entitled for re-engagement for the post of TGT English Guest Teacher in terms of the circular dated 15.05.2015 as she had not studied English for two years in her graduation and had studied the

same only for one year despite being a post graduate in English and despite having studied English for one year whilst pursuing B.A.(Hons.) in Sociology.

27. Qua this aspect it is essential to observe that such reliance placed vide the impugned order *on Jyoti K.K. and Ors. vs. Kerala Public Service Commission & Ors. (supra)*, the verdict of the Supreme Court is wholly misplaced.

28. As vide para 9 thereof, it was observed by the Supreme Court that if a person has acquired higher qualifications in the same subject such qualification can certainly be stated to presuppose the acquisition of the lower qualifications prescribed for the post and that where rules did not disqualify per se the holders of higher qualifications in the same faculty, the rules can only be understood in an appropriate manner and the appeals of the Bachelors' of Electrical Engineering who did not hold a diploma and certificate course in the said faculty and had sought appointment for selection to the post of Sub-Engineer (Electrical) in the Kerala State Electricity Board were allowed, as per the terms directed therein. It is essential to advert to para 9 of the verdict in *Jyoti K.K. & Ors. vs. Kerala Public Service Commission* (supra) which is reproduced as under:-

***“9. It is no doubt true, as stated by the High Court that when a qualification has been set out under the relevant rules, the same cannot be in any manner whittled down and a different qualification cannot be adopted. The High Court is also justified in stating that the higher qualification must clearly indicate or presuppose the acquisition of the lower qualification prescribed for that post in order to attract that part of the rule to the effect that such of those higher qualifications which presuppose the acquisition of the lower qualifications prescribed for the post shall also be sufficient for the post. If a person has acquired higher qualifications in the same faculty, such qualification can certainly be stated to presuppose the acquisition of the lower qualifications prescribed for the post. In this case it may not be necessary to seek far. Under the relevant rules, for the post of assistant engineer, degree in electrical engineering of Kerala University or other equivalent qualification recognised or equivalent thereto has been prescribed. For a higher post when a direct recruitment has to be held, the qualification that has to be obtained, obviously gives an indication that such qualification is definitely higher qualification than what is prescribed for the lower post, namely, the post of sub-engineer. In that view of the matter the qualification of degree in electrical engineering presupposes the acquisition of the lower qualification of diploma in that subject prescribed for the post, shall be considered to be sufficient for that post.*”**

*In the event the government is of the view that only diploma holders should have applied to post of sub-engineers but not all those who possess higher qualifications, either this rule should have excluded in respect of candidates who possess higher qualifications or the position should have been made clear that degree holder shall not be eligible to apply for such post. When that position is not clear but on the other hand rules do not disqualify per se the holders of higher qualifications in the same faculty, it becomes clear that the rule could*

*be understood in an appropriate manner as stated above. In that view of the matter the order of the High Court cannot be sustained. In this case we are not concerned with the question whether all those who possess such qualifications could have applied or not. When statutory rules have been published and those rules are applicable, it presupposes that everyone concerned with such appointments will be aware of such rules or make himself aware of the rules before making appropriate applications. The High Court, therefore, is not justified in holding that recruitment of appellants would amount to fraud on the public.”*

*(emphasis supplied)*

29. Likewise reliance placed by the Central Administrative Tribunal on the verdict of the Supreme Court in ***P.M.Latha and Anr.*** (supra) which relates to a case of teachers in primary classes, in relation to whom vide repeated judgments it has been laid down that eligibility qualification for primary teachers who have to teach small children in the primary schools are much different from those who have to teach the higher classes and graduates, is thus wholly misplaced. The reliance placed by the Central Administrative Tribunal, vide the impugned judgment through para 20 of its own verdict dated 03.08.2016 in O.A.4651/2014 titled ***Anju Drall vs. Govt. of NCT of Delhi*** for negating the plea of the petitioner in the instant case is equally misplaced in view of the above ratio of the verdicts of the Supreme Court and of the Division Bench and Single Bench of this Court detailed hereinabove.



30. As the prayers made by the petitioner through the writ petition are as under:-

- a. issue an appropriate writ, order or direction thereby setting aside the impugned order dated 12.09.2016 passed by the Central Administrative Tribunal, Principal Bench, Delhi to OA No. 4002 of 2015 (Annexure P-1) whereby the original application as preferred by the petitioner herein was dismissed; and*
- b. declare that the petitioner is duly qualified and satisfies all the requisite conditions/qualifications for the post of TGT (English);*
- c. direct the respondents to appoint the petitioner to the post of TGT English, w.e.f. the date when her counterparts have been appointed and pay her all consequential benefits thereof;*
- d. allow the present writ petition with costs in favour of the petitioner;*
- e. pass any such other or further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."*

in the circumstances of the case and in view of the observations and conclusion drawn hereinabove the impugned order dated 12.09.2016 of the Central Administrative Tribunal, Principal Bench in O.A.No.4002/2015

whereby the original application of the petitioner was dismissed, -is set aside and it is held that the petitioner in the facts and circumstances of the instant case, satisfies the requisite condition for re-engagement to the post of TGT (English) Guest Teacher for the SSA for the year 2015-16. However, prayer clause (c) hereinabove cannot be permitted in as much as the petitioner's services had not been availed of for the year 2015-16, she cannot be granted the payment of consequential benefits. The respondents are directed to consider the petitioner as eligible for the post of TGT Guest Teacher in English as per rules for future requirements, if any.

31. The writ petition is thus disposed of in the above terms, without any order as to costs.

**ANU MALHOTRA, J**

**SANJIV KHANNA, J.**

**MAY 23<sup>rd</sup> 2017**  
mk/mr