

Item No. 12



**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No. 2183/2015

This the 16th day of August, 2022

**Hon'ble Mr. R N Singh, Member (J)
Hon'ble Mr. Tarun Shridhar, Member (A)**

Ms.Uma Rani
Aged 35 years
D/o Om Parkash
R/o House No.51,
Village Kamruddin Nagar, Nangloi
Delhi-110041
(Mob-09891824014)

...Applicant

(By Advocate :Mr. Prince Singh for Mr. Anuj Aggarwal)

Versus

1. Government of NCT of Delhi
Through the Chief Secretary
Secretariat, I.P.Estate, New Delhi- 110002
2. Delhi Subordinate Services Selection Board (DSSSB)
Through its Secretary
FC-18, Institutional Area
Karkardooma, Delhi- 110092
3. The Director of Education,
Government of N.C.T. of Delhi,
Old Secretariat Building, Civil Lines, Delhi-110054
4. Rehabilitation Council of India
Through its Chairperson
B-22, Qutab Institutional Area,
New Delhi - 110016.

...Respondents

(By Advocate : Mr. Amit Yadav)

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**ORDER (ORAL)****Hon'ble Mr. TarunShridhar, Member (A):**

The applicant appeared in a competitive examination for selection to the post of TGT (Hindi) Female in the Department of Education, Government of NCT of Delhi pursuant to an examination notification/advt. no. 2/2010 issued by the respondent No. 2 i.e. the Delhi Subordinate Services Selection Board (DSSSB).

2. The applicant is aggrieved that while the result of the examination with respect to other candidates, who had appeared for the said post, was declared, the result qua the applicant was withheld and subsequently, the candidature of the applicant was rejected on the ground that she did not possess the requisite essential qualification of Bachelor of Education (B.Ed). The applicant possesses the qualification of B.Ed i.e. B.Ed in Special Education (Mental Retardation) and the respondents have held that this qualification is not equivalent to B.Ed.

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3. Aggrieved by this decision of the respondents to reject her candidature, she seeks the following relief(s) by virtue of the present Original Application:-

- “(i) Issue an appropriate order or direction thereby setting aside the impugned Result Notice No.302 dated 19/03/2015 issued by Delhi Subordinate Services Selection Board (DSSSB), respondent no. 2 herein, whereby the candidature of the applicant, [Roll No. 05412340], for the post of TGT (Hindi) Female (Post Code - 54/10) is rejected on the ground “NE (not eligible) - As B. Ed in Spl. Education (Mental Retardation) done by her is not equivalent to B. Ed.”;*
- (ii) Issue an appropriate order or direction thereby declaring that the rejection of the candidature of the applicant on the ground "NE (not eligible) - As B. Ed in Spl. Education (Mental Retardation) done by her is not equivalent to B. Ed." by the respondent no. 2/DSSSB is arbitrary, discriminatory, punitive, unreasonable, unconstitutional and violative of Articles 14, 16 & 21 of the constitution of India;*
- (iii) Issue an appropriate order or direction thereby directing the respondents to consider the candidature of the applicant for the post of Teacher (Primary) and, after such consideration, appoint the applicant to the post of Teacher (Primary) with all consequential benefits thereof;*
- (iv) Issue any appropriate order or direction as this Hon'ble Tribunal may deem fit and proper in the interest of justice and in the favour of the applicant ; and*
- (v) Allow the present application with cost, in favour of the applicants.*

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4. Learned counsel for the applicant vehemently argues that the B.Ed Special Education is, in fact, a Bachelor's Degree in education and if anything the qualification of the applicant is an enhanced qualification compared to the basic qualification of B.Ed required for the said post. Learned counsel also draws attention to the counter reply filed by respondent No. 4 which is the Rehabilitation Council of India wherein the respondents have specifically averred that like the general B.Ed., the B.Ed Special Education is also a degree course of two years academic duration and the eligibility for admission to this B.Ed. Special Education is the same as the general B.Ed. and is to be considered as degree equivalent to any other bachelors degree.

5. In the said affidavit, it has also been specifically mentioned that persons possessing the degree of B.Ed Special Education are trained and competent not only to teach regular subjects but also to handle the specific needs and requirements of children who are differently or specially abled. He submits that because the apex council dealing with the subject of disabled has unambiguously held that B.Ed. Special Education is equivalent to the B.Ed., there is no cause for the

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respondents to deny consideration of selection of the applicant on the ground that the applicant does not possess equivalence degree to the one required in the Recruitment Rules. He further draws attention to the detailed judgment dated 16.09.2009 passed by the Hon'ble High Court of Delhi in **WP (C) 6771/2008** titled ***Social Jurist, A Civil Rights Group*** versus ***Government of N.C.T. of Delhi & Anr.***

6. In the aforesaid Judgment, the Hon'ble Delhi High Court had given a direction to the respondents i.e. GNCTD to grant equivalence to B.Ed. Special Education with B.Ed General. In fact, while giving this categorical direction the Hon'ble High Court had also observed and used the term 'request' to the respondents to consider granting preference and priority to the candidates holding B.Ed Special Education in appointment of Teachers in all their schools. While making this 'request', the Hon'ble High Court had observed that each school shall have at least two special teachers along with necessary teaching aids and reading materials. The said direction/observation/request of the Court was against the background of children with special needs

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not getting admission in regular schools on account of non-availability of trained teachers and necessary facilities.

7. Further, the learned counsel also draws attention to an Order dated 31.03.2016 passed by this Tribunal in O.A. No. 3442/2014, wherein it was held that since the Right to Education Act stipulated that the teachers with qualification of B.Ed or D.Ed in Special Education should be recruited in the schools. Therefore, there could be no bar for appointment of such persons who hold degree of B.Ed. Special Education, merely on this ground that this is not specifically referred to only as B.Ed.

8. On the other hand, learned counsel for the respondents draws attention to the specific averment made in the counter reply of other respondents wherein it has been stated that recruitment to civil posts has to be done strictly in accordance with the provision of the Recruitment Rules. The Recruitment Rules specifically mention B.Ed as an essential qualification and submits that the B.Ed. Special Education cannot be held to be equivalent to B.Ed. Moreover, he points out that the

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B.Ed. Special Education is only for the purpose of dealing with specific needs of disabled pupils, whereas the post in question here is TGT (Hindi) and it has been brought out in their counter affidavit that the applicant cannot be considered to be qualified to hold this position since her B.Ed. qualification is only with respect to children with special needs. He further mentions that the Recruitment Rules of the post have not been put to challenge in the present Original Application and the applicant is not possessing the requisite qualification as per the extant Recruitment Rules.

9. We have heard the learned counsels for the parties and carefully gone through the documents on record. The Hon'ble High Court of Delhi while disposing of **WP(C) No. 677/2008** which has been referred to in the preceding paragraphs of this Order, had observed as under :-

"6. Keeping in view the aforesaid affidavits, we are of the opinion that respondent nos. 1, 2, 5 and 6 should try to achieve teacher pupil ratio of 1:5 at the secondary level and 1:2 at the primary level. We further direct respondent nos. 1, 2, 5 and 6 to grant equivalence to B.Ed. (SE) with B.Ed.(General) and to D.Ed. (SE) with D.Ed./TTC for the purpose of appointment of special teachers in all the schools in the State as well as schools run by local bodies namely NDMC, MCD and Cantonment Board. Needless to

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say that the service conditions of the special teachers shall be same as that of the regular teachers holding the qualification of general teachers. We also request the respondent nos. 1, 2, 5 and 6 to consider granting preference and priority to candidates holding B.Ed.(SE) and D.Ed.(SE) degrees in appointment of teachers in all their schools. The school authorities shall ensure that each school shall have at least two special teachers and further that necessary teaching aids and reading materials are provided. This shall be done within six months."

10. Further, in Para 8, it had also recorded that disabled children are being denied admission on the ground that the School do not have the necessary facilities and further given a categorical direction that no disabled child shall be refused admission in any of the schools either run by the State government or in local bodies.

11. Against the aforesaid background and the categorical directions of the Hon'ble High Court of Delhi, we are surprised to know that the respondents have not taken any steps to either amend the necessary rules or even issue administrative orders declaring equivalence of B.Ed Special Education with B.Ed.

12. We have no cause to deviate from the principle and law already laid down by the Hon'ble High Court. Moreover, even our reading of the degree held by the

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applicant of B.Ed Special Education means that the term 'B.Ed' gets subsumed in the B.Ed Special Education and we cannot hold the validity of the action of the respondents in rejecting the candidature of the applicant.

13. Accordingly, the present Original Application is allowed. The impugned result notice dated 19.03.2015 bearing no. F.1 (213)/CC-II/DSSSB/2012/ qua the applicant is set-aside.

14. The respondents are further directed that in the event of the applicant having been successful in the competitive exam and given appointment pursuant to this Order, she shall be entitled to all the consequential benefits, including seniority at par with the candidates selected pursuant to the notification dated 21.05.2014 (Annexure A-9). However, such consequential benefits shall be only on notional basis.

There shall be no order as to costs.

(Tarun Shridhar)
Member (A)

(R N Singh)
Member (J)

/anjali/deeksha/