



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

**O.A. No. 2928/2022
M.A. No. 2977/2022**

This the 22nd Day of November, 2022

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

Mohit Kumar
Aged about 34 years,
S/o Sh. Ram Lal Singh
R/o Village Fayaz Nagar Post Rajabpur, Distt. Amroha,
Uttar Pradesh-244236
Mob. No. 7351589320
Post: TGT (English) (Male)
Post Code: 131/17
Group- B

...Applicant

(By Advocate : Mr. Anuj Aggarwal with Mr. Prince Kumar Singh)

Versus

1. Delhi Subordinate Services Selection Board (DSSSB)
Through its Chairman
Govt. of NCT of Delhi,
FC-18, Institutional Area,
Karkardooma, Delhi-110092
Email: dsssb-secy@nic.in
2. Directorate of Education,
Through Director of Education,
Govt. of NCT of Delhi
Old Secretariat Building,
Civil Lines, Delhi-110054
Email: diredu@nic.in, diredu@hub.nic.in

...Respondents

(By Advocate : Mr. Rajneesh Sharma)



ORDER (ORAL)

Hon'ble Mr. Tarun Shridhar, Member (A)

M.A. No. 2977/2022

The present M.A. seeks condonation of delay in filing the associated O.A.

2. The applicant submits that the delay is only of 145 days and it is squarely on account of the applicant's inability to garner enough financial resources to file the O.A. The applicant is an unemployed person and thus, was financially constrained to approach the Tribunal to agitate his grievance.

3. Moreover, learned counsel for the applicant argues that the relief claimed by the applicant is squarely covered by the judgment of this very Tribunal and therefore, in the light of the judgment of the Hon'ble Supreme Court in ***K.C. Sharma and Ors. Vs. Union of India and Ors.*** (1997) 6 SCC 721, the delay deserves to be condoned.

4. Learned counsel for the respondents submits that the applicant besides making a mention of non-availability of resources, has not adduced any cogent reasons to explain the delay. He strongly contests the statement that the delay is of only 145 days. Learned counsel points out that the vacancy notice is of the year 2017 and the result of the same was declared in the year 2019 and now we are in the year 2022 i.e.

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three years down the line. The applicant has nowhere explained as to why he took three years to agitate his grievance before this Tribunal. Moreover, the applicant has also not substantiated it in any manner that he was precluded from approaching this Tribunal earlier on account of the financial constraints.

5. We have taken note of the contents of the M.A. as also the arguments put forth by the learned counsel for the parties.

6. The issue involved in the O.A. is denial of appointment to the applicant despite his success in the selection process. The grounds adduced in the O.A. are convincing enough for us to decide that the matter needs to be adjudicated on its merits rather than a technical impediment of limitation standing in the way. Moreover, the delay is not as inordinate as not to deserve condonation.

7. Therefore, the M.A. is allowed and the delay of 145 days is condoned.

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We have taken up the O.A. for hearing with the consent of learned counsel for the parties on account of the issue involved and the fact the learned counsel for the applicant has pointed out that the issue being adjudicated upon in this O.A.,

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has been conclusively decided on 16.08.2022 by this very bench of the Tribunal in O.A. No. 2183/2015.

2. We have gone through the facts as narrated in the O.A. and have no doubt in our mind that the facts and the issue involved in the present O.A. are identical without any departure from those in O.A. No. 2183/2015.

3. Briefly stated, the applicant was successful in the selection process for the post of TGT English (Male) Post Code : 131/17 in the Department of Education, Govt. of NCT of Delhi. However, the candidature of the applicant has been rejected on a very specious ground that the degree of Bachelor of Education (Special Education) cannot be considered to be a degree in Bachelor of Education. This issue has been elaborately thrashed out in the aforementioned O.A. For the sake of clarity and better understanding, the judgment rendered by us in O.A. No. 2183/2015 is reproduced below :

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.

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.

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 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 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 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 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.”

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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 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."

4. Since, there is not even an iota of difference in the facts and the issues involved, we allow the present O.A. The result notice dated 07.05.2019 bearing No. F.No.163/Result/TGT(English)/Male/Int. Cell/DSSSB/2018-

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19/2229-38, is quashed and set aside to the extent that it rejects the candidature of the present applicant.

5. Subsequent to this direction, a further direction is issued to the respondents that in the event of the applicant meeting all other qualifications and eligibility criteria including merit in the selection examination, give him appointment to the post of TGT Male (English) with all consequential benefits including seniority at par with the candidates who were selected pursuant to the said examination. However, the consequential benefits so awarded shall only be on notional basis.

6. The O.A. stands disposed of against the background of these directions.

There shall be no orders as to costs.

(Tarun Shridhar)
Member (A)

(R.N. Singh)
Member (J)

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