



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

O.A. No. 2613/2022

Reserved on: 13.09.2024
Pronounced on: 18.10.2024

Hon'ble Mr. Manish Garg, Member (J)
Hon'ble Dr. Anand S. Khati, Member (A)

Nadeem,
Aged about 36 years,
S/o Sh. Abdul Sattar,
R/o 160, Gali No. 2, Mustafabad, Delhi – 110094,
Mob. No. 9350824013,
Post: Teacher (Primary –Urdu),
Post Code: 069/09,
Group –B.

...Applicant

(By Advocates: Mr. Anuj Aggarwal with Mr. Shakib Malik
and Mr. Nikhil Pawar)

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. Municipal Corporation of Delhi (MCD)
Through its Commissioner,
Dr. SPM Civil Centre,
J.L. Nehru Marg, New Delhi-110002
Email: commissioner.ccc@mcd.nic.in



3. National Council for Teacher Education (NCTE)
Through its Chairperson,
G-7, Sector-10, Dwarka,
Landmark - Near Metro Station,
Delhi-110075.
Email: cp@ncte-india.org

4. Indira Gandhi National Open University (IGNOU)
Through its Registrar,
Maidan Garhi,
New Delhi-110068.
Email: csrc@ignou.ac.in

5. Maulana Azad National Urdu University (MANUU)
Through its Registrar,
Gachibowli-Hyderabad 500032.
Email: registrar@manuu.edu.in

...Respondents

(By Advocates: Mr. Swetank Shantanu and Ms. Harshita Raghuvanshi)

ORDER**Hon'ble Mr. Manish Garg, Member (J) :**


The brief facts of the case as narrated by the learned counsel for the applicant are as under:

1.1. Vide Advertisement No. 004/2009, the Delhi Subordinate Services Selection Board (DSSSB) in December, 2009, invited applications for appointment to the post of Teacher (Primary-Urdu) (Post Code: 069/09) in Municipal Corporation of Delhi (MCD).

1.2. On 28.04.2013, the DSSSB conducted the written examination for appointment on the post of Teacher (Primary-Urdu) (Post Code: 069/09) in MCD and the applicant duly appeared in the said written examination.

1.3. Vide Result Notice No. 322 dated 01.03.2014, the DSSSB provisionally selected certain candidates for appointment on the post of Teacher (Primary-Urdu) (Post Code: 069/09) in MCD. The applicant obtained 127 marks out of 200 marks in the OBC category and the last selected candidate in OBC category obtained 71 marks out of 200 marks. Learned counsel for the applicant submitted that






the applicant obtained more marks than the last selected candidates in the OBC category and was, therefore, entitled to be appointed on the post in question. However, vide impugned Rejection Notice No. 323 dated 01.03.2014, the DSSSB rejected the candidature of the applicant for appointment on the post of Teacher (Primary-Urdu) (Post Code: 069/09) in MCD with the following remarks:

"Due to possession of educational qualification is not as per RR's provided by user Deptt."

1.4. Being aggrieved by the impugned Rejection Notice dated 01.03.2014, the applicant preferred a Writ Petition [WP (C) No. 4512/2014] before the Hon'ble Delhi High Court. Vide order dated 23.07.2014, the Hon'ble Delhi High Court declined to entertain the said petition. However, gave liberty to the petitioner to file a fresh Writ Petition seeking appropriate directions against NCTE or in alternative, the applicant may file an Original Application before this Tribunal.

1.5. Thereafter, the applicant preferred an Original Application [OA No. 3190/2014] before this Tribunal



seeking quashing of the impugned Rejection Notice No. 323 dated 01.03.2014. The said Original Application [OA No. 3190/2014] was dismissed by this Tribunal vide Order dated 31.08.2018. Thereafter, being aggrieved, by the Order dated 31.08.2018 passed by this Tribunal in OA No. 3190/2014, the applicant preferred a Review Application (MA No. 2447/2019), however, the same was also dismissed vide order dated 05.08.2019. Being aggrieved, by the Order dated 05.08.2019 as well as Order dated 31.08.2018 passed by this Hon'ble Tribunal, the applicant preferred a Writ Petition [WP (C) No. 575/2020] before the Hon'ble Delhi High Court. The said Writ Petition was dismissed by the Hon'ble Delhi High Court vide Order dated 17.01.2020.

1.6. Being aggrieved by the Order dated 17.01.2020, passed by the Hon'ble Delhi High Court in Writ Petition [WP (C) No. 575/2020), the applicant preferred a Review Petition [Review Pet. No. 64/2021. The said Review Petition was disposed of by the Hon'ble Delhi High Court vide Order dated 15.07.2021 with liberty to the petitioner to make a representation to the concerned authority.



1.7. In terms of the Order dated 15.07.2021 passed by the Hon'ble Delhi High Court in Review Petition No. 64/2021, the applicant preferred a representation dated 19.08.2021, to the respondents highlighting the fact that vide Notification dated 12.05.2020, the Ministry of Human Resource Development, Govt. of India, specified that the course of Diploma in Primary Education Programme (DPE) (Distance Mode) for the period from 2006 to 2008 has been accorded permission retrospectively. The said representation was followed by reminders dated 01.10.2021 and 03.11.2021. However, no replies to the said representation as well as reminders have been received by the applicant till date.

1.8. Vide letter dated 07.09.2021, the SDMC directed the DSSSB to take appropriate action on the representation made by the applicant herein. However, the DSSSB has failed to take appropriate action in the matter. Being aggrieved, the applicant made repeated representations to the respondents. The said representations were duly received by the respondents, however, no reply to the said

representations has been received by the applicant till date.

The applicant, through his counsel, also served a legal notice dated 30.05.2022 upon the respondents. The said legal notice dated 30.05.2022 was duly received by the respondents, however, no reply to the said legal notice has been received by the applicant till date.

1.9. Being aggrieved the applicant preferred an Original Application [O.A. No. 1575 of 2022] before this Tribunal. Vide Order dated 04.07.2022 this Tribunal disposed of the said OA at the admission stage with a direction to the respondents to consider and decide the representation made by the applicant on 19.08.2021.

1.10. Thereafter, vide impugned Order dated 07.09.2022, passed by the DSSSB the representation of the applicant dated 19.08.2021 was rejected. Aggrieved by the same, the applicant, through his counsel, also served a legal notice dated 13.09.2022 upon the respondents, but to no avail.

1.11. Hence, the present Original Application has been preferred by the applicant seeking the following reliefs:





“i) Set aside the impugned Order dated 07.09.2022, passed by the Delhi Subordinate Services Selection Board (DSSSB), whereby the representation dated 19.08.2021, as preferred by the applicant herein, was rejected;

(ii) Set aside the impugned Rejection Notice No. 323 dated 01.03.2014, issued by the Delhi Subordinate Services Selection Board (DSSSB), whereby at Sr. No. 02, the candidature of the applicant for appointment on the post of Teacher (Primary-Urdu) (Post Code: 069/09) in MCD, was rejected with the remarks, "Due to possession of educational qualification is not as per RR's provided by user Deptt.

(iii) Declare that Diploma in Primary Education Programme (DPE) (Distance Mode), as passed by the applicant herein from MANUU & IGNOU, is legal and valid qualification for appointment on the post of Teacher (Primary-Urdu) (Post Code: 069/09) in MCD,

(iv) Declare that the applicant is duly qualified and fulfills all the requisite qualifications for appointment on the post of Teacher (Primary-Urdu) (Post Code: 069/09) in MCD,

(v) Direct the respondents to consider the candidature of the applicant for appointment on the post of Teacher (Primary- Urdu) (Post Code: 069/09) in MCD and, thereafter, appoint the applicant on the post of Teacher (Primary-Urdu) (Post Code: 069/09) in MCD with all consequential benefits (monetary as well as non-monetary benefits) including seniority, full back wages/salary, etc. thereof,

(vi) allow the present Original Application with costs in favor of the applicant; and

(vii) issue any other appropriate order or direction as this Hon'ble Tribunal may deem fit and proper in the interest of justice and in the favor of the applicant;”


2. Learned counsel for the applicant submitted that the case of the applicant is covered by the Order of this

Tribunal in OA No. 1244/2020 titled Suneeet Panwar Vs. The Directorate of Education & Ors. dated 12.02.2024.

2.1. It is the contention of the learned counsel for the applicant that the Diploma in Primary Education Programme (DPE) (Distance Mode), as undertaken by the applicant from MANUU & IGNOU stands retrospectively recognized by the NCTE. It is also his contention that IGNOU as well as MANUU both are Central Government Universities and are 100% funded by the Central Government. He further contended that since the Diploma in Primary Education Programme (DPE) (Distance Mode), as undertaken by the applicant, is retrospectively recognized by the NCTE, the applicant is entitled to be appointed on the post of Teacher (Primary-Urdu) (Post Code: 069/09) in MCD.


2.2. Learned counsel for the applicant argued that the impugned Rejection Notice No. 323 dated 01.03.2014, as well as impugned action on the part of the respondents in not appointing the applicant on the post of Teacher (Primary-Urdu) (Post Code: 069/09) in MCD, is contrary to the Statement of Objects and Reasons of the NCTE





Amendment Act, 2019 and the applicant is entitled to be appointed on the post of Teacher (Primary-Urdu) (Post Code: 06909) in MCD in terms of the order/judgment dated 18.10.2019 in OA/310-00258/2016 of the Chennai Bench of this Tribunal as well as the judgment dated 22.11.2019 in W.P. (C) No. 1951/2018 titled **Azizul Hoque Vs. The State of Assam & Ors** passed by the Hon'ble High Court of Gauhati.

2.3. Learned counsel also contended that there is acute shortage of qualified and meritorious Urdu Teachers in MCD schools. He submitted that since 2009, till date, no advertisement has been issued by the respondents inviting applications for filling the post of PRT Urdu and in last 13 years, several PRT Urdu teachers, who were working in MCD schools, have been promoted as TGTs in Delhi Govt. Schools and, consequently, there are several vacant posts of PRT Urdu in MCD school. Therefore, even on that ground, the applicant is entitled to be appointed on the post of Teacher (Primary-Urdu) (Post Code: 069/09) in MCD.



3. Opposing the grant of relief, the learned counsel for the respondents drawing strength from the averments made in the counter affidavit as well as written submissions submitted that on 29.12.2009 the respondent No. 1 issued an advertisement no. 004/2009, for appointment of teachers in various departments of Govt. of NCT, Delhi and one of the posts was advertised for the position of Teacher (Primary- Urdu) in MCD. The advertisement required the candidates to submit their mark-sheet/certificate two years diploma/certificate course in ETE/JBT or B.El.Ed, along with other documents.

3.1. Learned counsel submitted that during the scrutiny of the certificate, it was found that the applicant had acquired the Diploma in primary education (DPE) from Maulana Azad Urdu University. On the basis of clarification provided by south Delhi Municipal Corporation vide letter no. D/2472/Addi Dir/ED/HQ/SDMC/2014 dated 19.02.2014 the diploma in primary education (DPE) from Maulana Azad Urdu University was not granted recognition by NCTE. Accordingly, the candidature of the applicant was rejected on 01.03.2014 by the respondents in terms of the

clarification provided by the SDMC vide its Letter dated 19.02.2014.

3.2. Learned counsel for the respondents further submitted that the recruitment for the post in question has already been closed on 08.06.2018 and everything has been surrendered to the user department and hence the same has attained finality. He further added that it is pertinent to submit herein that the Notification dated 12.05.2020 only gives recognition to the certificates retrospectively, however, the same is only for the future vacancies. It is nowhere stated that the recruitment process which are already closed have to be reopened. Hence, the present OA is not maintainable.

4. Having heard the learned counsel for the respective parties and perused the pleadings available on record, we would draw the following analysis.

5. ANALYSIS :

5.1. In **Shankar K. Mandal vs. State of Bihar** AIR 2003 SC 4043, the Hon'ble Apex Court culled out following ratio insofar as the cut off date is concerned:





“(1) The cut off date by reference to which the eligibility requirement must be satisfied by the candidate seeking a public employment is the date appointed by the relevant service rules;

(2) If there is no cut off date appointed by the rules then such date shall be as appointed for the purpose in the advertisement calling for applications; and

(3) If there is no such date appointed then the eligibility criteria shall be applied by reference to the last date appointed by which the applications were to be received by the competent authority.”

5.2. It is not in dispute that the rejection notice No. 323 has been passed on 01.03.2014 with remarks *“rejected due to possession of educational qualification is not as per RR’s provided by user deptt.”*. We also observe that the another impugned order dated 07.09.2022 has been passed by the respondents whereby the applicant’s representation has been rejected on the reasoning *“the applicant is seeking relief in accordance with the above case of Sh. Rahila but it may be seen that the said order was applicable to that particular case only as an extraordinary relief and the same is not applicable to the applicant as order dated 05.02.2020 shall not be construed as laying any general proposition.”*

5.3. On plain reading of the aforesaid reasoning, we find that the term “extraordinary relief” has not been explained



by the respondents. What is the meaning of the term “extraordinary relief”, which was granted in the case of Sh. Rahila is not known. There is no iota of mention that what distinction is sought to be made by the respondents while deciding the case of the applicant, terming it as an “extraordinary relief”. From a perusal of the impugned order dated 07.09.2022, we are of the view that the meaning of the term “extraordinary relief” in context of para 13 of the quoted decision in OA No. 2241/2014 titled Rahila vs. MCD would be “extraordinary relief” only on account of the fact that the applicant in the said case, i.e., Sh. Rahila, approached this Tribunal way back in the year, 2014.

5.4. We observe that in the present case also, the applicant has been agitating his grievance since 2014 as being aggrieved by the impugned Rejection Notice dated 01.03.2014, the applicant preferred a Writ Petition [WP (C) No. 4512/2014] before the Hon'ble Delhi High Court. Vide order dated 23.07.2014, the Hon'ble Delhi High Court declined to entertain the petition. However, gave liberty to the petitioner to file a fresh Writ Petition seeking



appropriate directions against NCTE or in alternative, the applicant may file an Original Application before this Tribunal. Thereafter, the applicant preferred an Original Application [OA No. 3190/2014] before this Tribunal seeking quashing of the impugned Rejection Notice No. 323 dated 01.03.2014. The said Original Application [OA No. 3190/2014] was dismissed by this Tribunal vide Order dated 31.08.2018. Thereafter, being aggrieved, by the Order dated 31.08.2018 passed by this Tribunal in OA No. 3190/2014, the applicant preferred a Review Application (MA No. 2447/2019), however, the same was also dismissed vide order dated 05.08.2019. Being aggrieved, by the Order dated 05.08.2019 as well as Order dated 31.08.2018 passed by this Hon'ble Tribunal, the applicant preferred a Writ Petition [WP (C) No. 575/2020] before the Hon'ble Delhi High Court. The said Writ Petition was dismissed by the Hon'ble Delhi High Court vide Order dated 17.01.2020. Being aggrieved by the Order dated 17.01.2020, passed by the Hon'ble Delhi High Court in Writ Petition [WP (C) No. 575/2020), the applicant preferred a Review Petition [Review Pet. No. 64/20211. The said Review



Petition was disposed of by the Hon'ble Delhi High Court vide Order dated 15.07.2021 with liberty to the petitioner to make a representation to the concerned authority. In terms of the Order dated 15.07.2021 passed by the Hon'ble Delhi High Court in Review Petition No. 64/2021, the applicant preferred a representation dated 19.08.2021 to the respondents highlighting the fact that vide Notification dated 12.05.2020, the Ministry of Human Resource Development, Govt. of India, specified that the course of Diploma in Primary Education Programme (DPE) (Distance Mode) for the period from 2006 to 2008 has been accorded retrospective recognition. The said representation was followed by reminders dated 01.10.2021 and 03.11.2021. However, no replies to the said representation as well as reminders have been received by the applicant till date. The applicant, through his counsel, also served a legal notice dated 30.05.2022 upon the respondents, but to no avail. Being aggrieved the applicant preferred an Original Application [O.A. No. 1575 of 2022] before this Tribunal. Vide Order dated 04.07.2022 disposed of the said OA at the admission stage with a direction to the respondents to



consider and decide the representation made by the applicant on 19.08.2021. Thereafter, vide impugned Order dated 07.09.2022, passed by the DSSSB the representation of the applicant dated 19.08.2021 was rejected. Aggrieved by the same, the applicant, through his counsel, also served a legal notice dated 13.09.2022 upon the respondents, but to no avail. Hence, the present OA has been preferred.

5.5. We find that though the applicant has also been agitating his grievance right from the year 2014 as already highlighted in the preceding paragraphs, it is also not in dispute that the earlier rejection notice dated 01.03.2014 was based on the fact that during the scrutiny of the certificate, it was found that the applicant had acquired the Diploma in primary education (DPE) from Maulana Azad Urdu University. On the basis of clarification provided by south Delhi Municipal Corporation vide letter no. D/2472/Addi Dir/ED/HQ/SDMC/2014 dated 19.02.2014 the diploma in primary education (DPE) from Maulana Azad Urdu University was not granted recognition by NCTE. Accordingly, the candidature of the applicant was



rejected on 01.03.2014 by the respondents in terms of the clarification provided by the SDMC vide its Letter dated 19.02.2014. However, it is also pertinent to note that the respondents have ignored the notification dated 12.05.2020 issued by the Ministry of Human Resource Development, Govt. of India wherein it is mentioned that the course of Diploma in Primary Education Programme (DPE) (Distance Mode) from Maulana Azad Urdu University for the period from 2006 to 2008 has been accorded retrospective recognition.

5.6. We also find that the decision rendered in OA No. 1244/2020 titled Suneet Panwar vs. The Directorate of Education is a clincher to the issue in hand wherein in paras 4 to 7, this Tribunal observed as under:

“4. Mr. Anuj Kumar Sharma, learned counsel for the respondents relies upon the detailed counter affidavit filed by the respondents pursuant to the notice submitting that it is not disputed that at the relevant time, the National Council for Teacher Education (NCTE) had not granted recognition/affiliation to Guru Nanak Dev University, Amritsar which has awarded the relevant degree to the applicant. Therefore, the action of the respondents in cancelling the candidature was correct. At the same time, it is also not in dispute that vide a notification dated 28.11.2023, the said recognition under the NCTE Act, 1993 has been granted to Guru Nanak Dev University, Amritsar, retrospectively w.e.f. 1995-96.

5. In view of this we can draw no other inference, except that the degree possessed by the applicant at the

time of selection would be a valid degree in terms of the rules governing the post of Physical Education Teacher.

6. Accordingly, we allow the present OA, and quash and set aside the impugned order dated 27.07.2020. The candidature of the applicant stands restored with a direction to the competent authority amongst the respondents to process it further and subject to verification of his eligibility in accordance with rules, offer him appointment forthwith.

7. The offer of appointment shall be on notional basis with effect from the date the last of the candidates selected for the post pursuant to the vacancy notification of post code 90/17 was given appointment. The applicant shall also be entitled to all the consequential benefits including, but not restricted to financial benefits and seniority, on notional basis from the date of appointment and on actual basis with effect from the date he assumes the charge of his position pursuant to the offer of appointment.”

5.7. We also observe that grant of recognition to the courses is within the realm and jurisdiction of National Council for Teacher Education (NCTE). Once, a recognition has been given by the NCTE to the course undertaken by the applicant, i.e., Diploma in Primary Education Programme (DPE) (Distance Mode) from Maulana Azad Urdu University, the impugned rejection notice cannot sustain.

5.8. It would be relevant to draw a reference to para 28 of the decision rendered by the Hon'ble Apex Court in **National Council for Teacher Education and Others Vs.**





Shri Shyam Shiksha Prashikshan Sansthan and others

etc., Civil Appeal No. 1125-1128 OF 2011 decided on 31.01.2011 wherein it was held that the NCTE is the final authority for decision of grant of recognition. The said para reads as under:

“28. In **State of Maharashtra v. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya and others** (2006) 9 SCC 1, this Court considered the question whether, after grant of recognition by NCTE, the State Government can refuse to issue no objection certificate for starting B.Ed. colleges on the premise that a policy decision in that regard had been taken. After adverting to the relevant provisions of the Constitution, the Act and the Regulations and the judgment in **St. John Teachers Training Institute v. Regional Director, NCTE (supra)**, the Court held that final authority to take decision on the issue of grant of recognition vests with the NCTE and it cannot be denuded of that authority on the ground that the State Government/Union Territory Administration has refused to issue NOC.”

5.9. In view of the aforesaid the applicant cannot be non-suited on the grounds that the present case does not fall within the purview of “extraordinary relief” as well as the educational qualifications possessed by him are not as per RR's provided by the user department. The said observations in the impugned order/rejection notice are without any basis or any supportive reasoning.

6. CONCLUSION :

6.1. In view of the aforesaid factual matrix of the case, we allow the OA and quash and set aside the impugned order dated 07.09.2022, passed by the Delhi Subordinate Services Selection Board (DSSSB), whereby the representation dated 19.08.2021 of the applicant was rejected. We also set aside the impugned Rejection Notice No. 323 dated 01.03.2014, issued by the Delhi Subordinate Services Selection Board (DSSSB), whereby at Sr. No. 02, the candidature of the applicant for appointment on the post of Teacher (Primary-Urdu) (Post Code: 069/09) in MCD, was rejected with the remarks, *"Due to possession of educational qualification is not as per RR's provided by user Deptt."*

6.2. We hold that Diploma in Primary Education Programme (DPE) (Distance Mode) from Maulana Azad Urdu University as possessed by the applicant is a valid qualification for appointment on the post of Teacher (Primary-Urdu) (Post Code: 069/09).





6.3. Accordingly, the candidature of the applicant stands restored with a direction to the competent authority amongst the respondents to process it further and subject to verification of his eligibility in accordance with rules, offer him appointment forthwith.

6.4. The offer of appointment shall be on notional basis with effect from the date the last of the candidates selected for the post pursuant to the vacancy notification of post code 069/09 was given appointment. The applicant shall also be entitled to all the consequential benefits including, but not restricted to financial benefits and seniority, on notional basis from the date of appointment and on actual basis with effect from the date he assumes the charge of his position pursuant to the offer of appointment.

6.5. The aforesaid exercise shall be completed by the respondents within a period of two months from the date of receipt of a certified copy of this order. Pending MAs, if any, shall also stand disposed of. No costs.

(Dr. Anand S. Khati)
Member (A)

(Manish Garg)
Member (J)

/as/