

Abida Begum K.M Vs. Union of India, Represented by the Secretary, Government of India Ministry of Human Resources and Development, New Delhi and Others

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Court : Central Administrative Tribunal CAT Ernakulam

Decided On : Mar-09-2011

Judge : P.R. Raman, Judicial Member & the Honourable Mr. K. George Joseph, Administrative Member

Appeal No. : Original Application No. 791 of 2009 with Original Application No. 640 of 2009 with Original Applica

Appellant : Abida Begum K.M

Respondent : Union of India, Represented by the Secretary, Government of India Ministry of Human Resources and De

Advocate for Def. : Mr. S. Radhakrishnan, Mr. N. Haridas, Mr. P.N. Sasidharan, Mr. T.H. Abdul Azeez, Mr. R. Ramdas

Advocate for Pet/Ap. : For the Applicant: T.H. Abdul Azeez and B. Amanulla, Advocates. For the Respondents: R1 - George Joseph, ACGSC, M.V. Thamban, Sunil Jacob Jose SCGSC, R2 and R3 - S. Radhakrishnan, R4 - N. Haridas, P.N

Judgement :

HON'BLE MR. K GEORGE JOSEPH, ADMINISTRATIVE MEMBER

1. As the legal issue involved in the above 3 O.As is the same, they were clubbed together for hearing and are disposed of by this common order.

2. The applicants in these O.As responded to Employment Notice dated 31.01.2009 issued by the respondent No.2 for recruitment of Post Graduate Teachers (PGT) in the Union Territory of Lakshadweep. The applicants in O.A Nos. 640/2009 and 791/2009 applied for the two posts of PGT in Physics whereas the applicant in O.A. No. 848/2009 applied for one post of PGT in Maths. They were not selected. Aggrieved, they have filed these O.As for quashing the select lists in respect of the subjects of Physics and Maths and to direct the respondents 1 to 3 to make fresh selection considering the marks obtained in the Post Graduate degree concerned alone.

3. The applicants mainly contended that the official respondents have violated the Recruitment Rules and the notification dated 31.01.2009. The selection of the party respondents are unsustainable as the selection is made by considering the marks obtained in B.Ed. alongwith marks obtained in the Post Graduate degree concerned. B.Ed. and teaching experience are alternate qualifications and are only enabling qualifications. The applicants in O.A. Nos. 640/2009 and 848/2009 are having P.G. degree with B.Ed. and reasonable teaching experience. The applicants should have been selected considering their higher merit in P.G degree alone or at least giving more weightage to it. Those who are already in service should be considered against 50% promotion quota, not against direct recruitment quota.

4. The respondents 2 ad 3 in their reply statement submitted that P.G. and B.Ed. are essential qualifications with equal weightage. The marks in respect of P.G. and B.Ed. considered together are added with the marks of teaching experience. The Administrator had amended last year's Selection Rules and framed the existing Selection Rules according to which 85% marks were to be given for essential qualifications as per merit, 10% for teaching experience and 5% for higher and additional qualifications. The direct recruitment conducted by the department is based on the existing Recruitment Rules and Selection Rules.

5. The reply statement filed by the party respondents supported the stand taken by the official respondents. They submitted that none of the grounds put forward by the applicants are legally sustainable.

6. In the rejoinder, the applicants reiterated their stand in O.As and further elaborated it.

7. We have heard Mr. M.V. Thamban, counsel for the applicants in OA Nos. 640/09 and 848/09, M/s. T.H. Abdul Azeez and B.Amanulla, counsel for applicant in O.A. No. 791/09, Mr. S. Radhakrishnan, counsel for respondents No. 2 and 3 in all O.As, Mr. Sunil Jacob Jose, SCGSC for respondent No. 1 in OA Nos. 640/09 and 848/09, Mr. George Joseph, ACGSC for respondent No.1 in O.A. No. 791/09 Mr. N. Haridas, counsel for respondent No. 4 in OA Nos. 640/09 and 791/09, Mr. P.N. Sasidharan, counsel for respondent No. 5 in OA No. 640/09, Mr. T.H. Abdul Azeez, counsel for respondent No. 6 in OA No. 640/09 and Mr. R. Ramdas, counsel for respondent No. 5 in OA No. 848/09 and perused the material on record.

8. The short question to be answered is whether the selection of the party respondents is illegal or not. The Employment Notice dated 31.01.2009 stated as under:

"The selection of the candidates will be purely on academic merit of the applicants while also giving consideration to the applicants" higher qualifications and experience for the job."

A plain reading of the above statement shows that the selection is based on academic merit, higher qualifications and experience.

9. Rule 8 of the Recruitment Rules reads as under:

"8. Educational and other: A. Master's degree in the qualifications required subject concerned. for direct recruits B. Degree or recognised diploma in Education.

OR

Three years experience of teaching intermediate or higher classes.

OR

Five years experience of teaching in High School classes. "

Master's degree in the subject concerned and B.Ed. or Diploma in Education are essential qualifications. Experience is shown as an alternative to B.Ed. or Diploma.

10. The official respondents have given equal weightage to Master's degree and B.Ed. in considering together the marks obtained both the degree examination for the purpose of 85% of the marks in the selection process. The respondents have followed the Recruitment Rules and the notification of 31.01.2009 in letter and spirit.

11. In the manner in which it is shown in the Recruitment Rules, experience is an alternate for B.Ed. or Diploma in Education. In the Employment Notice, the academic merit and experience are separate and distinctive and the experience is not an alternative qualification. The official respondents have given a weightage of 10% to those candidates having experience, over and above the qualification of Master's degree and B.Ed. This is in accordance with the Employment Notice and very much in line with the spirit of the Recruitment Rules. Teaching experience is listed in the Recruitment Rules although as an alternate qualification for B.Ed. / Diploma. Teaching experience is highly desirable for a P.G. Teacher. No right thinking person can object to it. In our considered view, there is no conflict between the Employment Notice and the Recruitment Rules, nor there is any violation of the Recruitment Rules. But the Recruitment Rules could be made more clear and transparent so as to avoid misunderstanding. There is no arbitrariness or discrimination in applying the Selection Rules approved by the Administrator, Union Territory of Lakshadweep, which in fact is only a guideline for the Departmental Promotion committee to make selection. The Selection Rule was formulated, as per records, on 27.01.2009 before issuing the Employment Notice on 31.01.2009. Therefore, it cannot be said that the respondents were not objective in their approach to the selection of P.G. Teachers. The Recruitment Rules do not prohibit consideration of those who are already in service against direct recruitment quota. The respondents have only followed the Recruitment Rules considering those who applied for the post.

12. In the absence of arbitrariness and discrimination, we do not find the selection of the party respondents illegal, considering the facts and circumstances of these O.As. However, we feel that there is scope of greater clarity in the Recruitment Rules to make the selection process more transparent and free from litigation.

13. In the result, the O.As are dismissed with no order as to costs.

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