

IN THE HIGH COURT OF DELHI AT NEW DELHI

SUBJECT : SERVICE MATTER

WP(C).No.4601/2008

Date of Decision : November 20, 2008

Sunita

Petitioners
Through: Mr.Sunil Dalal, Advocate

Versus

DSSSB and Ors.

Respondents
Through: Mr.Nawal Kishore Jha, Advocate for
respondents 1 and 2 with Mr.Manish,
Assistant working in the office of
respondent No.1 Mr.Anurag Mathur
for respondent/Delhi University

S.N. AGGARWAL, J. (Oral)

1. The petitioner has done her M.A. In Hindi from Delhi University. She has also done her B.Ed. In 2004 from Meerut University. She had applied for her appointment to the post of TGT (Hindi) pursuant to an advertisement issued by Delhi Subordinate Service Selection Board (in short, 'DSSSB') on 30.12.2006 in 'Times of India'. The petitioner had applied for her consideration for the post of TGT (Hindi) under OBC category. A written examination was held by DSSSB on 09.07.2007 and 02.09.2007. The said examination was in two Parts. Part-I examination was prescriptive and Part-II examination was descriptive. The petitioner had scored 75.50 out of 200 marks in the preliminary examination held on 09.07.2007 and 96.00 out of 200 marks in Part-II examination held on 02.09.2007. She, thereby, scored total 171.50 out of 400 marks in the examination held by DSSSB for recruitment to the post of TGT (Hindi). The last candidate under the OBC category recommended by DSSSB for her appointment to the post of TGT (Hindi) had scored 140.76 out of 400 marks. Since the candidate under the OBC category, who had scored less marks than the petitioner, was recommended for appointment, the petitioner filed an application under the Right to Information Act and asked the DSSSB to give reasons as to why the petitioner has not been offered appointment though she has scored higher marks than the last selected candidate. The petitioner was informed under the Right to Information Act that she was not recommended for her appointment as she did not fulfil the minimum eligibility criteria of having studied Hindi as an Elective subject in all the three years of her graduation. On receipt of the said information from the respondents, the petitioner, being aggrieved by the decision of the respondents in not recommending her for appointment to the post of

TGT (Hindi), has filed the present writ petition seeking issuance of a writ of mandamus or any other appropriate writ, order or directions to the respondents for appointing her to the post of TGT (Hindi) (Female) as she has qualified in the preliminary and the main examination held for the said post.

2. The only question that needs consideration in this writ petition is whether the study of subject of Hindi by the petitioner as compulsory subject in all the three years of her B.A. (Pass) Course meets the requirement prescribed by the respondents for recruitment of TGT (Hindi). In other words, the question is whether the expression 'Elective Subject' used in the Recruitment Rules would include within its ambit the main subject of 100 marks studied by the candidate at graduation level during all the three years of graduation.

3. The above question that falls for consideration in this writ petition has already been considered by this court and answered in favour of the petitioner in a number of earlier judgments. These judgments are in the cases of Saroj Rana and Another Versus Government of NCT of Delhi and Ors. [WP(C) No. 2576/2002], Himani Sharma Versus Government of NCT of Delhi and Ors. [WP(C) No. 3243/2005] decided on 25.07.2008; Shri Sunil Kumar Versus Government of NCT of Delhi and Anr. [WP(C) No. 408/2008] and Poonam Yadav Versus Government of NCT of Delhi and Ors. [WP(C) No. 6692/2008].

4. In all these judgments, it was held by this court that the study of a particular subject as a compulsory subject by a candidate in all the three years of B.A. (Pass) course would meet the requirement prescribed by the respondents for recruitment of TGTs.

5. Mr. N.K. Jha, learned counsel appearing on behalf of respondent nos. 1 and 2 says that he has instructions from his client to pass a similar order as was passed by this court in the earlier cases referred above. In the opinion of this court, the present case is squarely covered by the above referred earlier judgment of this court. The respondents have not filed any appeal against these judgments and, therefore, they are stated to have acquired finality. Accordingly, the respondent no. 1 is hereby directed to immediately recommend the name of the petitioner to Director of Education for her appointment to the post of TGT (Hindi) in case she is otherwise found eligible for such appointment. The seniority of the petitioner in the cadre of TGT shall be decided by the respondents on the basis of her merit position in the select list. The petitioner, however, shall not be entitled to any salary for the period prior to the date of her joining the service of the respondents on the principle of 'no work no pay'.

6. In view of the above, this writ petition is allowed and stands disposed of leaving the parties to bear their own costs.

NOVEMBER 20, 2008

Sd./-
S.N.AGGARWAL, J