

IN THE HIGH COURT OF DELHI AT NEW DELHI

SUBJECT : SERVICE MATTER

LPA No. 409 of 2008

Date of decision: November 18, 2008

RAMESH KANTA

Appellant
Through: Mr. Kalicharan, Advocate

VERSUS

CHIEF SECRETARY, GOVT. OF NCT OF
DELHI and ANR

Respondents
Through: Ms. Sujata Kashyap, Advocate.

CORAM:

HON'BLE THE CHIEF JUSTICE
HON'BLE DR. JUSTICE S. MURALIDHAR

1. This appeal is directed against the impugned order dated 13th May 2008 passed by the learned Single Judge dismissing the Appellants Civil Writ Petition No. 9611 of 2997.
2. The Appellant applied for appointment to the post of Primary Teacher in the Municipal Corporation of Delhi (MCD) on 30th June 1998. A letter was issued on 18th February 1999 by the Secretary, Delhi Subordinate Service Selection Board (DSSSB), Respondent No.2 herein, informing the Appellant that the application form would be scrutinized and the original documents verified. It may be mentioned that the Appellant applied for the post in the reserved category as a candidate belonging to the Scheduled Caste. When she was not appointed, the Appellant caused a legal notice to be served upon the Respondent No.2 on 11th August 1999.
3. There was a dispute about the cut-off date which was 20th June 1998 for the purpose of accepting the Scheduled Caste certificate. Accordingly, the Appellant filed Writ Petition (C) No. 6172 of 2001 in this Court which was disposed of by an order dated 28th September 2005 passed by the learned Single Judge directing the Respondents to process the case of the Appellant and pass suitable orders within a period of two months.
4. Consequent thereto an order dated 3rd March 2006 was passed by the DSSSB in which it was observed inter alia that the petitioner possessed Shiksha Visharad Degree from Hindi Sahitya Sammelan, Allahabad which is not treated as valid professional

qualification for recruitment to the posts applied for. National Council for Teacher Education in its letter dated 18.4.2006 has intimated that Shiksha Visharad degree from Hindi Sahitya Sammelan, Allahabad is not recognized by NCTE. It is also to state that under Section 17 (4) of NCTE Act, a qualification in Teacher Education obtained from an institute not recognized by NCTE is not valid for the purpose of Employment under the Central Government, any State Government or University or in any School, College or other educational body aided by the Central Government or any State Government. She therefore did not possess the valid professional qualification for the post of Primary Teacher in MCD and Assistant Teacher in Dte. of Education respectively at that time, which made her ineligible for consideration for the posts applied for. Ms. Ramesh Kanta is therefore, not eligible to be nominated for the post of Primary Teacher (Post Code 08/1998 and Assistant Teacher (Post Code 13/1998).

5. The Appellant then filed Writ Petition 9611 of 2007 in this Court challenging the aforementioned order dated 3rd March 2006. It was inter alia contended by the Appellant that one other candidate had been appointed as Primary Teacher on the basis of the Shiksha Visharad qualification obtained from Hindi Sahitya Sammelan, Allahabad. The learned Single Judge, after considering the replies filed, concluded that the Appellant was not entitled to be appointed to the post of a Primary Teacher on the basis of the Shiksha Visharad degree, which was not recognized. It was further held that even if some other teacher had been appointed on the basis of the said degree, the respondents cannot be directed to commit the same irregularity again. The Appellants plea of discrimination was, accordingly rejected.

6. On 1st August 2008 this Court passed the following order in the present appeal: Learned counsel appearing for the appellant produces a photocopy of letter of Central Board of Secondary Education dated 20.05.1988 to the effect that B.Ed. degree from Hindi Sahitya Sammelan Prayag Allahabad is recognized and holder of such a degree is eligible to be appointed as trained teacher. The other document produced is a reply by the Health and Education Minister in Parliament to the effect that, as per the instructions of the Education Department, the degree awarded by Hindi Sahitya Sammelan Allahabad including Shiksha Visharad (B.Ed) was fully recognized. Learned counsel appearing for the respondents are directed to file an affidavit explaining as to whether Shiksha Visharad is recognized by the Government as being equivalent to the B.Ed Course. Adjourned to 22nd September 2008.

7. Pursuant to the aforementioned order the Respondent No.1 has filed a reply on 14th November 2008 stating as under: 6. That the answering Respondent has sought clarification from the Association of Indian Universities whether the B.Ed Degree given by Shiksha Visharad of Hindi Sahitya Sammelan Allahabad is equivalent to the B.Ed. Degree and in response to the said letter, the Association of Indian Universities has given the clarification that Hindi Sahitya Sammelan, Allahabad is one of the voluntary institutions set up for promotion of Hindi language. Its examinations are not equated with regular examinations of Secondary Boards/Universities. As per Govt. of India (Ministry of Human Resources Development) Press Notification dated 5th May 1988, the standard of Hindi only of its examinations is accepted for purpose of employment. It is further

submitted that it is also intimated that Prathma of Hindi Sahitya Sammelan, Prayag, Allahabad has however, been recognized by the Government of India for purpose of employment where matriculation has been prescribed as a qualification. 8. In addition the learned counsel for the Respondents has brought to our notice of the earlier decision dated 3rd March 2006 passed by the Division Bench of this Court in LPA No. 400/2002 (Municipal Corporation of Delhi v. Pawan Kumar) where a similar plea was rejected. 9. This Court finds that the decision of the Division Bench in Pawan Kumar fully covers the present case against the Appellant. The Writ Petitioner in the said case alleged that he was entitled to have been declared as a successful candidate as he had a score above the cut off point. The petitioner alleged that he has a B.Ed degree from Hindi Sahitya Sammelan, Allahabad in 1997 which is called Shiksha Visharad and is allegedly equivalent to B.Ed degree. Some other petitioners got their degree/diploma from Sampurnanad Sanskrit Vishwavidyalaya, Varanasi. After discussing the judgment of the Supreme Court in Suresh Pal v. State of Haryana AIR 1987 SC 2027 and the later decision in State of Rajasthan v. Lata Arun (2002) 6 SCC 252, this Court in Pawan Kumar held that: It is for the authorities concerned and not the Court to decide whether there is equivalence or not, it is not proper for the Court to encroach into the executive domain. The judiciary must exercise restraint in this connection.

10. Learned counsel for the Appellant was unable to distinguish the aforementioned judgment of the Division Bench of this Court in Pawan Kumar. The reliance placed on the judgment in Suresh Pal is to no avail in view of the later judgment in Lata Arun.

11. We are satisfied that there is no infirmity in the impugned order of the learned Single Judge that calls for interference. The appeal is dismissed with no order as to costs.

Sd./-
CHIEF JUSTICE
Sd./-
S. MURALIDHAR, J.

NOVEMBER 18, 2008