

GOVERNMENT OF NCT OF DELHI
DEPARTMENT OF TRAINING AND TECHNICAL EDUCATION
MUNI MAYA RAM MARG, PITAM PURA, DELHI

F.32 (42)/CC/Trg. Admn./2018/853

Dated: 26/12/2018

ORDER

An OA No. 3594/2018 was filed by Sh. Rajiv Kumar Vs. GNCTD & Ors. in Hon'ble CAT . The relief sought in the OA is as under:

The Applicant had sent a written representation to respondent 2 in two sets on 15/02/2018 one set through proper channel and another set as advance copy by registered post. As final authority for taking final view on written representation of applicant is Respondent 2. In above circumstances applicant seek direction in the form of order of this Ld. Tribunal to Respondent 2 to consider aforesaid written representation of the applicant and take final view on the claim of the applicant after taking the opinion from any other departments, in accordance with law within a reasonable period but not beyond three months from the date of receipt of a certified copy of order.

The Applicant seeks that representation dated 15.02.2018 (Supra) shall be disposed by passing a reasoned and speaking order and taking into consideration Central Government communications DGE&T Norms prescribed for qualification of Principal Junior Scale and Vice Principal vide page no. 43 of Training Manual Second Edition published in the year 2002 and page 42 of training manual third edition part 1 published in the year 2014 and MSDE-19/03(10)/2015-CD dated 07/01/2016 respectively and with intimation to the Applicant.

At this stage the applicant seeks liberty to seek remedial measures if the grievance of applicant still survives.

Written representation (supra) include following prayer and relief sought.

Revise/Amend DEPARTMENT OF TRAINING AND TECHNICAL EDUCATION NOTIFICATION Delhi dated 26th July 1989 no.F3/1/87/Trg/Admn rules for appointment to the post of (1) Principal Industrial Training Institutes, Pusa, Arab Ki Sarai & Jaffarpur/Assistant Director of Training/Principal Basic Training Centre, and (2) Principal ITIs Assistant Inspector of



Training/Vice Principal/Industrial Liaison Officer cum Officer in Charge/Training Officer in the Directorate of Training & Technical Education, Delhi

and

Revise/ Amend recruitment rules notified in Delhi Gazette vide No. F.2 (67)/75-S.II/Vol.I Delhi the 19th August 1981 for appointment to the post of (2) Principal Industrial Training Institutes, Malviya Nagar/Shahdara/Training Evaluation Officer/Senior Surveyor in the Directorate of Training And Technical Education, Delhi Administration, Delhi;

to the extent these are in violation of article 14 and 16 of Constitution of India and in violation of DGE&T Norms prescribed for qualifications of Principal Junior Scale and Vice Principal vide page no 43 of Training Manual Second Edition published in the year 2002 and page 42 of Training Manual Third Edition part 1 published in the year 2014 and MSDE 19/03/(10)/2015-CD Government of India Directorate General of Training Ministry of Skill Development & Entrepreneurship (MSDE) dated 7th January 2016.

This OA was disposed of on 20.09.2018. The operative portion of the order of the Hon'ble CAT is as under:

"The applicant who is present in person states that he will be satisfied if his request to include his name for appointment to the post of Vice Principal in the revised Recruitment Rules notified on 26.07.1989, is considered by the respondents in a time bound manner.

In view of the limited prayer made by the applicant, without going into merit of the case, the respondents are directed to consider the request of the applicant by passing a reasoned and speaking order expeditiously, and in any case, not later than three months from the date of receipt of certified copy of the order."

In this context it is informed that

Union Public Service Commission advertised (on 11th August 2018) vacancy for direct recruitment to six posts of Vice Principal/AIT/ILO cum Officer In charge / Training Office, in DTTE, Government of NCT of Delhi against RRs of Vice Principal etc. notified on 25 July 1989.

For direct recruitment to the post of Vice Principal as per RRs dated 25.07.1989 the essential Educational Qualification are as follows:



Degree in Mechanical /Electrical /Civil Engg. / Technology of a recognised University or equivalent.

The applicant is possessing Degree in Computer Engineering which is not stipulated in existing RRs.

In this context it is very much pertinent to go through following settled position of law as laid down by Hon'ble Supreme Court.

In **State of Himachal Pradesh Vs Suresh Kumar Verma & Ors** Hon'ble SC held that:

"It is settled law that having made rules of recruitment to various services under the State or to a class of posts under the State, the State is bound to follow the same and to have selection of the candidates made as per recruitment rules and appointment shall be made accordingly.

In **Bhupendra Nath Hazarika and Ors .v State of Assam and ors.** it is held that :

"When there is violation of the recruitment rules the recruitment is unsustainable."

In another case **Bahnu Partap vs. State of Haryana & Ors.** Hon'ble Supreme Court has held that parameters of appointment are like a "Lakshman Rekha" which cannot be breached and both the selection committee and the appointing authority have to follow them strictly.

In **DoPT FAQ on Recruitment Rules** vide No. AB.1417/13/2013- Estt. (RR) (1349) at Q No. 3 it is stated that:

"The legal position is that the posts are to be filled up as per the eligibility conditions prescribed in the Recruitment Rules in force at the time of occurrence of vacancies unless the Recruitment Rules are amended retrospectively. The practice has however been to give effect to the Recruitment Rules prospectively."

In the light of above cited cases and furthermore existing RRs cannot be violated, being Statutory Rules derived from Article 309 of the Constitution of India, his candidature cannot be considered for the post of Vice Principal.

It is also worth mentioning that at this late stage the process of recruitment to the post of Vice Principal cannot be disturbed and if the Department considers the candidature of the applicant at this stage then it will amount to discrimination towards other similarly placed candidates which would be a violation of Art. 14 and Art. 16 of the Constitution of India.

The request of the applicant to include his name for appointment to the post of Vice Principal in the revised Recruitment Rules notified on 26.07.1989 cannot be considered at this stage and therefore rejected accordingly.



This issues with the approval of Secretary (TTE).



(Amod Barthwal)
Administrative Officer (Trg.)

To
Sh. Rajiv Kumar
S/o Late Shri Bhagat Singh
D-230 Gali No.8, Amar Colony,
East Gokalpur Delhi-110094.

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Dated: 26/12/2018

Copy to:

1. Admn. Officer (Litigation), TTE (HQ) for information.
2. System Analyst, TTE (HQ), for uploading on the departmental web site.
3. Guard file.



(Amod Barthwal)
Administrative Officer (Trg.)