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YOGESH KUMAR AND ORS.

v.

GOVERNMENT OF NTC DELHI AND ORS.

MARCH 5, 2003

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[BRIJESH KUMAR AND D.M. DHARMADHIKARI, JJ. ]

*Service Law:*

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*Education—Appointment/Selection—Post of Primary Teachers—Requisite qualification 10th pass with 2 years teacher Training Certificate or 12th pass with one year Teacher Training Certificate—B.Ed. degree holders seeking recruitment—High Court rejecting the same—Justification of—Held, since B.Ed. not being the prescribed qualification such candidate cannot be given entry—Specialized training given to teachers for training small children at primary level cannot be compared with training given for awarding B.Ed. degree—Thus, order of High Court justified.*

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**Advertisement was issued for recruitment of primary teachers in Municipal Corporation Schools. The required qualification was 10th pass with two year teacher training or 12th pass with one year teacher training certificate. Appellants, holders of B.Ed. degree approached High Court for appointment to these posts. High Court dismissed the same. Hence the present appeal.**

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**Appellants contended that under the terms of the advertisement for recruitment, B.Ed. is included in the prescribed qualification and just at the nick of final selection the authorities were not right in declaring them ineligible for recruitment; that as one year's Trained Teachers Certificate is not granted anywhere by any institution, it should be treated to be to mean B.Ed. degree which is a one year Teachers training course after Graduation; that B.Ed. qualification should be treated as higher qualification than TTC because primary teachers recruited on TTC qualification can get promotion as teachers to teach higher classes and B.Ed. is the prescribed qualification for higher classes; and that the long standing practice of considering and appointing candidates with B.Ed. degree should be taken as aid to construe the terms of the advertisement for recruitment of primary teachers in Municipal Corporation Schools.**

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**Dismissing the appeal, the Court**

**HELD: 1.1.** The High Court rightly concluded that B.Ed. qualification, although a well recognized qualification in the field of teaching and education being not prescribed in the advertisement, only some of the B.Ed. candidates who took a chance to apply for the post cannot be given entry in the field of selection; and that teacher training imparted to teachers for B.Ed. course equips them for teaching higher classes. A specialized training given to teachers for teaching small children at primary level cannot be compared with training given for awarding B.Ed. degree. Merely because primary teachers can also earn promotion to the post of teachers to teach higher classes and for which B.Ed. is the prescribed qualification, B.Ed. cannot be held to be higher qualification than TTC. Furthermore, looking to the different nature of TTC qualification the High Court rightly held that it is not comparable with B.Ed. degree qualification and the latter cannot be treated as higher qualification to the former. [665-D, E, F]

**1.2.** Recruitment to Public Services should be held strictly in accordance with the terms of advertisement and the recruitment rules, if any. Deviation from the Rules allows entry to ineligible persons and deprives many others who could have competed for the post. Merely because in the past some deviation and departure was made in considering the B.Ed. candidates and that was so done because of paucity of TTC candidates, a patent illegality cannot be allowed to continue. The recruitment authorities were well aware that candidates with qualification of TTC and B.Ed. are available yet they chose to restrict entry for appointment only to TTC pass candidates. It is open to the recruiting authorities to evolve a policy of recruitment and to decide the source from which the recruitment is to be made. [666-B, C]

**1.3.** It is projected that presently more candidates available for recruitment to primary school are from B.Ed. category and very few from TTC category. Whether for the aforesaid reasons, B.Ed. qualification can also be prescribed for primary teachers is a question to be considered by the authorities concerned but this Court cannot consider B.Ed. candidates for the present vacancies advertised as eligible. Therefore, the High Court was justified in coming to the conclusion that B.Ed. candidates were rightly excluded by the authorities from selection and appointment as primary teachers. It is further clarified that this Court is not called upon to express any opinion on any B.Ed. candidates appointed as primary teachers pursuant to advertisements in the past and this decision is confined only to the

A advertisement which is under challenge. [666-E, F]

*N. Suresh Nathan v. Union of India*, [1992] Suppl. 1 SCC 584, distinguished.

B CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3897 of 2001.

From the Judgment and Order dated 9.2.2001 of Delhi High Court in C.W. No. 6798 of 2000.

C L. Nageshwara Rao, N.L. Ganapathi for the Appellants.

D.S. Mahra and Ms. Indra Sawhney (NP) for the Respondents.

The Judgment of the Court was delivered by

D DHARMADHIKARI, J. This is an appeal by candidates who are holders of B.Ed degree seeking recruitment to the post of Assistant Teachers in the Primary Schools of Municipal Corporation, Delhi. The division bench of Delhi High Court by impugned common judgment dated 6.2.2001 in Public Interest Petition and Original Petitions filed by B.Ed. candidates dismissed the claim of B.Ed. candidates for appointment to the post of primary teachers.

E The candidates holding B.Ed. degree have approached this Court in this appeal.

F The first contention advanced by the learned counsel appearing for the B.Ed. candidates is that under the terms of the advertisement for recruitment issued on 21.9.2000, B.Ed. qualification is included in the prescribed qualification and just at the nick of final selection the authorities were not right in issuing the impugned Circular to declare them ineligible for recruitment. The relevant part of the advertisement for recruitment containing the requirements of essential qualifications reads as under:

G "A (I) Higher Secondary pass of recognised board/University with an elective subject in the Matric level.

(II) *Two year teacher training certificate from the recognised institute*  
OR

H B(I) Intermediate or equivalent from a recognised board/university

with an elective subject in the required language at the Matric level. A

(II) One year Teacher Training Certificate from a recognised institution.

Note: The candidate applying for the post of Assistant Teacher (Primary) Hindi must have passed Hindi as an elective subject at the Matric level.” (Underlining for emphasis) B

The submission made on behalf of B.Ed. candidates is that as prescribed in clause B(ii), one year’s Trained Teachers Certificate is not granted anywhere by any institution and therefore the aforesaid qualification should be treated to be to mean to indicate B.Ed.degree which is a one year teacher’s training course after Graduation. C

The second contention advanced is B.Ed. qualification should be treated as higher qualification than TTC because primary teachers recruited on TTC qualification can get promotion as teachers to teach higher classes and B.Ed. is the prescribed qualification for higher classes. D

The division bench of the Delhi High Court in the impugned judgment has dealt with the above two arguments in great detail. In our considered opinion it has rightly come to the conclusion that B.Ed. qualification, although a well recognised qualification in the field of teaching and education -being not prescribed in the advertisement, only some of the B.Ed. candidates who took a chance to apply for the post cannot be given entry in the field of selection. We also find that the High Court rightly came to the conclusion that teacher training imparted to teachers for B.Ed. course equips them for teaching higher classes. A specialized training given to teachers for teaching small children at primary level cannot be compared with training given for awarding B.Ed. degree. Merely because primary teachers can also earn promotion to the post of teachers to teach higher classes and for which B.Ed. is the prescribed qualification, it cannot be held that B.Ed. is a higher qualification than TTC. Looking to the different nature of TTC qualification the High Court rightly held that it is not comparable with B.Ed. degree qualification and latter cannot be treated as higher qualification to the former. E F G

Lastly, learned counsel for the appellants urged that undisputedly for the last several years for recruitment of primary teachers in Municipal Corporation Schools, candidates with B.Ed. degree were considered and appointed. This long standing practice should be taken as aid to construe the H

A terms of the advertisement and particularly clause B(ii) on which reliance is placed by B.Ed. candidates to consider them eligible.

In support of the above contention - learned counsel placed reliance on the decision of this Court in *N. Suresh Nathan v. Union of India*, [1992] Suppl. 1 SCC 584.

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This last argument advanced also does not impress us at all. Recruitment to Public Services should be held strictly in accordance with the terms of advertisement and the recruitment rules, if any. Deviation from the Rules allows entry to ineligible persons and deprives many others who could have competed for the post. Merely because in the past some deviation and departure was made in considering the B.Ed. candidates and we are told that was so done because of the paucity of TTC candidates, we cannot allow a patent illegality to continue. The recruitment authorities were well aware that candidates with qualification of TTC and B.Ed. are available yet they chose to restrict entry for appointment only to TTC pass candidates. It is open to the recruiting authorities to evolve a policy of recruitment and to decide the source from which the recruitment is to be made. So far as B.Ed. qualification is concerned, in the connected appeals [CA No. 1726-28 of 2001] arising from Kerala which are heard with this appeal, we have already taken the view that B.Ed. qualification cannot be treated as a qualification higher than TTC because the nature of training imparted for grant of certificate and degree are totally different and between them there is no parity whatsoever. It is projected before us that presently more candidates available for recruitment to primary school are from B.Ed. category and very few from TTC category. Whether for the aforesaid reasons, B.Ed. qualification can also be prescribed for primary teachers is a question to be considered by the authorities concerned but we cannot consider B.Ed. candidates for the present vacancies advertised as eligible. In our view, the division bench of the Delhi High Court was fully justified in coming to the conclusion that B.Ed. candidates were rightly excluded by the authorities from selection and appointment as primary teachers. We make it clear that we are not called upon to express any opinion on any B.Ed. Candidates appointed as primary teachers pursuant to advertisements in the past and our decision is confined only to the advertisement which was under challenge before the High Court and in this appeal.

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The case of *N. Sureshnathan* (supra) on which reliance is placed is clearly distinguishable. There a different question of computing minimum prescribed period of service for promotion of Diploma Engineers had arisen

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and on the basis of long practice, the contention of the Department was accepted that minimum required period of service to make diploma engineers eligible for promotion would be reckoned from the date on which they acquire degree while in service and not from the initial date of their appointment. A

In the result, this appeal fails and is hereby dismissed but in the circumstances without any order as to costs. B

N.J.

Appeal dismissed.