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IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.239 OF 2021

Subhash Laxman Nerurkar, aged 56 years,
Indian National, married, r/o H.
No.59/2/6, St. Anthony waddo, Near
Guirim Cross Guirim, Mapusa Bardez,
Goa.

...Petitioner

Versus

1. State of Goa through the Chief Secretary, having office at Secretariat, Porvorim, Goa.
2. The Director, Directorate of Education, Alto Porvorim, Bardez-Goa.
3. The Chairman, Dnyanprassarak Mandal's, Vaishya Bhuvan, Mapusa, Bardez-Goa.
4. The Manager, Dnyanprassarak Mandal's PVS Sarojini Madhusudhan Kushe Higher Secondary School and Institute of Vocational Studies, Kushe Nagar, Assagao, Bardez-Goa.
5. Mr Devendra Kenavdekar, Major of age, Indian National, Married, r/o H.No.427, Raint, Moira, Bardez-Goa.

...Respondents

Petitioner *in person*.

Ms Sapna Mordekar, Additional Government Advocate for Respondents Nos. 1 and 2.

Mr Sudin Usgaonkar, Senior Advocate *with* Ms Tanisha A.

Mashelkar, Advocate for the Respondents No.3, 4 and 5.

**CORAM: AVINASH G. GHAROTE &
VALMIKI SA MENEZES JJ.**

DATE: 8th MARCH, 2024

ORAL JUDGMENT:(Per. Avinash G. Gharote, J)

1. Heard the petitioner in person and Mr Usgaonkar, learned Senior Counsel with Ms Tanisha Mashelkar, learned Counsel for respondents No. 3, 4 and 5 and Ms Mordekar, learned Additional Government Advocate for respondents No.1 and 2.

2. The petitioner questions the denial to the petitioner of an opportunity to be considered by the DPC for the post of Principal. It is the contention of the petitioner, that on account of applicability of Rule 78 of the Goa, Daman & Diu Rules, 1986 and having had a Master's Degree in Law and a B. Ed Degree the necessary qualifications for being promoted to the Post of Principal stood satisfied by him on account of which the denial of the opportunity, is unjustified.

3. Mr Usgaonkar learned Senior Counsel while opposing relies upon the judgment in *Rajan Bandekar v/s. State of Goa*¹, which, according to him covers the field by holding that there are two different streams which have a different promotional channel, one is the General stream and the other is Vocational stream and the Circular dated 29.05.1992 does not have the effect of

¹ Writ Petition No.2065 of 2021(Filing) decided on 15.03.2022

merging those streams. It is therefore contended that the petitioner having been appointed in the Vocational stream as a Computer Teacher under the scheme promulgated in that regard by the Central Government was not eligible to switchover and claim entitlement to be appointed as a Principal.

4. Ms Mordekar, learned Additional Government Advocate for respondents No. 1 and 2 also supports the said argument by contending that the Seniority List for both the streams has been maintained separately and there has been no switchover on account of which the petitioner was not entitled to be considered for the post of Principal.

5. It is not in dispute that the petitioner came to be appointed as a Computer Teacher being a graduate in Engineering and having complied with the educational requirement in that regard was appointed as such on 20.07.1988. It is equally not disputed that initially the appointment was under the Central Government Scheme which was in vogue, in view of the circular dated 30.06.1988 (page 121). However, what is necessary to note is that in pursuance of the Circular dated 29.05.1992 the Vocational stream was brought under the provisions of the Goa, Daman & Diu School Education Act 1984 and Rules of 1986. For the sake of ready reference the contents of the circular being material are quoted as under:

*'Government of Goa,
Directorate of Education,
Panaji-Goa
Dated: 29th May, 1992.*

CIRCULAR

It is hereby clarified for the information of all concerned that the Vocational Stream at +2 stage is a part of the Higher Secondary Education on par with other streams and therefore provision of Goa, Daman & Diu School Education Act 1984 and Rules, 1986 are applicable to the Vocational Stream from the date of commencement of Vocational Stream in this State Expenditure incurred by Higher Secondary on Office Administration, Examination, etc., is therefore admissible as per Rules, so also collection of pupil's fund, term fees, etc. as applicable to Higher Secondary Education is also applicable to Vocational stream.

This may please be noted for information and guidance.

Sd/-

(P. V. Salekar)

Director of Education.'

6. A perusal of the language of the Circular would indicate, that though the appointment of Vocational teachers earlier thereto, was under the scheme by the Central Government, however consequent to the Circular dated 29.05.1992 all the teachers so appointed under the Central Government Scheme stood absorbed in the regular cadre under the Act of 1984 and the Rules of 1986 as framed thereunder. This would clearly indicate that the employment of the petitioner stood governed by Rule 78 of the Rules of 1986, framed under the Act of 1984. On this ground, therefore, we are not in agreement with what has been held in **Rajan Bandekar** (supra) that a separate cadre existed for the General stream and the Vocational stream and the avenues of promotion were different for the reason that it does not consider the language of Circular of 29.05.1992 which has the effect of bringing the engagement of teachers under the Central Scheme, under the Act of 1984 but is based upon reliance on the statement that the seniority list was separately maintained. As stated earlier the effect of applying the Act of 1984 to the teachers engaged under the Scheme was making Rule 78 applicable to them.

7. Be that as it may, for the purpose of the present petition what is necessary to be considered is whether the requirement of the qualifications for promotion to the post of Principal as indicated in Table -I Rule 78, has been complied by the petitioner or not. It is not in dispute that the petitioner has acquired the qualification of B.Ed in 2012 and has also completed his LLM in 2009. Prima facie this would indicate that the basic requirement for being considered to the post of Principal would be satisfied, however, a closer look, would indicate that this is in fact not so. In this regard it is necessary to consider the language of qualifications for promotees to the post of Principal, which for the sake of ready ref., is quoted as under:

TABLE

Qualifications for Direct Recruits							
Sr. No	Name of the post	Upper age limit	Qualification		Qualifications for promotees		Pay scales subject to revision.
1.	<u>Principals of Hr. Secondary School/Pry. Training Institute</u>	45 years	(i)	IInd Class Master's Degree from a recognised University; Degree in Education or	(i)	<u>A Master's Degree from a recognised University;</u>	1100-1600 (pre-revised)
			(ii)	Teaching; and	(ii)	<u>Degree in Education/Teaching from a recognised University; and</u>	
			(iii)	10 years teaching experience, out of which at least 5 years in Hr. Secondary Schools as Gr. I teacher or in Pry. Trs. Training Institute as Sr. Instructor, as the case may be, and remaining 5	(iii)	<u>At least 7 years teaching experience as Gr. I</u>	

				years in equivalent posts.	<u>teacher in the Hr. Secondary School or a Sr. Instructor in a Pry. Trs. Training Institute, as the case may be.</u>	
...						
5.	<u>Gr. I Teacher/ Sr. Instructor</u>	35 years.	(i) (ii)	<u>A Master's Degree in the subject; and</u> <u>A Degree in Education/Teaching ; failing which,</u> <u>A 2nd class Master's Degree in the subject. (He shall obtain his B.Ed. Degree at his own cost within 5 years and he shall not be confirmed without training qualification).</u>	<u>Asst. Teachers/Jr. Instructors with 3 yrs. Post training service in the school/Pry. Trs. Training Institute and possessing qualifications prescribed to the direct recruit in Col. No.(4).</u>	1640-2900
...						
12.	Computer Teacher	40 years	Essential:- (1) (2)	Graduate in any Discipline/Degree or Diploma in Electrical or Computer Engineering from recognised University /Institution. At least three (03) years experience in the field of imparting computer training/education.	N.A.	Rs.9300-34800+ Grade Pay Rs.4200].

			<i>Note: In case of candidates having qualifications other than BCA, MCA/Diploma or Degree in Computer Engineering from a recognised University/Institution, such candidates shall have to complete Post Graduate Diploma in Computer Education and Training (PGDCET) within 05 years of their appointment /engagement.</i>		
			(3)	<i>Knowledge of Konkani.</i>	
				<i>Desirable:- Knowledge of Marathi.</i>	

8. For the purpose of being considered for the post of Principal one of the necessary requirement would be 7 years teaching experience as a Grade-I teacher in the Higher Secondary School or as a Senior Instructor in a Primary Teachers Training Institute. This would then indicate that the requirement for being appointed as a Grade-I teacher as indicated at Sr. No.5 would then have to be satisfied by the petitioner. For the purpose of being appointed as Grade-I teacher, what is required is a Master's Degree in the subject for which the petitioner has been appointed to teach. As indicated above, the petitioner was appointed as Computer Teacher which would then indicate that the Master's Degree for the purpose of entering Grade-I, would be a Master's Degree in Computer Science. However, the Master's Degree which the petitioner possesses is in Law, which would not satisfy the requirement as is indicated for entering Grade-I, which has a consequent fall-out of incurring a disqualification for the purpose of being considered for the post of Principal as a Promotee.

9. In light of the above position, we therefore do not think a case is made by the petitioner to grant the relief claimed by him. The petition is therefore dismissed. However, in the circumstances there shall be no order as to costs.

VALMIKI SA MENEZES, J.

AVINASH G. GHAROTE, J.

MARIA SUZANA REBELLO Digitally signed by MARIA SUZANA REBELLO
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