

Environmental & Consumer Protect. Found

v.

Delhi Administration & Others

(Supreme Court Of India)

HON'BLE MR. JUSTICE DALVEER BHANDARI HON'BLE MR. JUSTICE A.K. PATNAIK

Writ Petition (Civil) No. 631 Of 2004 | 14-01-2010

1. In pursuance to the order of this Court dated 5th November, 2009, the Chief Secretary, Delhi Administration, has filed a comprehensive affidavit. In the affidavit, it is admitted that there are 5302 posts of Trained Graduate Teachers lying vacant. It is also mentioned therein that there are large number of vacancies in the categories of Principal, Vice-Principal and Assistant Teachers.

2. The learned Chief Secretary has stated that appointment of teaching staff in schools under the Directorate of Education, Delhi Administration, are made on the basis of the recommendation of the Delhi Sub-ordinate Staff Selection Board and the Union Public Service Commission. He has indicated the procedure of appointment and given the details of the usual time taken at different stages.

3. The learned Chief Secretary in his affidavit has stated that there are 216 posts of Principals, which are lying vacant. The mode of recruitment is 50% by direct recruitment and 50% by promotion. In the affidavit, he has also mentioned that as on 16th October, 2009, 45 posts under the Direct Recruitment quota are lying vacant.

4. The learned Chief Secretary has given details of the vacancies in the year 2007-2008, 2008-2009 and 2009-2010. According to him, 19 vacancies have to be filled for the year 2007-2008 and 16 vacancies have to be filled for the year 2008-2009 and 10 vacancies upto April, 2009, have to be filled for the year 2009-2010. The Chief Secretary has mentioned that there are 143 posts of Vice Principals which have not been filled. He says that mode of recruitment is 100% by promotion and he mentioned that there are 103 vacancies for the year 2008-2009 and 40 vacancies for the year 2009-2010. Similarly, he mentioned that in the category of Lecturer/PGT, 465 posts are lying vacant.

5. The Chief Secretary has mentioned that the Delhi Sub-ordinate Staff Selection Board takes one year to one and half year in finalizing the recruitment and sending the dossiers of the selected candidates to the Directorate of Education. He also indicated that out of 116 vacant posts under the Direct Recruitment as on 16th October, 2009, the Directorate sent requisition for filling up 75 posts of PGTs for the year 2009-2010 vide requisition dated 19th December, 2008 and 24 Dossiers of candidates selected by Delhi Sub-ordinate Staff Selection Board against the requisition for recruitment to the post of PGTs are pending for processing at various stages and will be issued appointment letters after completion of process as mentioned above.

6. In the latter part of the affidavit, the learned Chief Secretary has indicated that out of the sanctioned posts of TGTs of 25690 posts, 1536 posts are to be filled up by direct recruitment and 3426 posts are

to be filled up by promotion and in the concluding portion of the affidavit he says that it would take about two years in the whole process for filling up these vacancies.

7. On the one hand we appreciate the frank and candid admission by the learned Chief Secretary but on the other hand, we are astonished about the inordinate delay which takes place in filling up of these posts. If these Selection Boards take two years or more, then they must start the process of filling up of vacancies two or three years before the vacancies arise. Dates of retirement of teachers are known at the time of their appointment.

8. The right of children to free and compulsory education has now become part of Fundamental Right under Article 21A of the Constitution and the Parliament has passed the Right of Children to Free and Compulsory Education Act, 2009, passed on 26th August, 2009. There cannot be any justification for such an inordinate delay of this magnitude in filling up these vacancies. The learned Chief Secretary in his letter to Chairman, Union Public Service Commission has mentioned that acute shortage of teachers is affecting the study and the administration of the school. In other words, it is infringing the fundamental rights of the children.

9. We are constrained to send notice to the Chairman, Union Public Service Commission and the Chairman, Delhi Sub-ordinate Staff Selection Board. We direct them to file their own affidavits in response to the affidavit of the Chief Secretary of Delhi Administration dated 8th January, 2010. We would also expect them to inform within what period these vacancies would be filled?

10. The Registry is directed to send the notices by ordinary process and also through a Special Messenger to the concerned authorities to avoid any further delay in the matter. Let the affidavits be filed within three weeks from today.

11. We direct the Directorate of Education, Delhi Administration to remain present in Court on the next date of hearing. Interlocutory Application No.2 in which Municipal Corporation of Delhi [for short, 'M.C.D.'] was impleaded as party, despite service, no one appeared for the M.C.D., though vakalatnama has been filed. We would like the concerned Secretary of the M.C.D. to file an affidavit regarding the position of vacancies in schools run by the M.C.D. and available infrastructure facilities in those schools within three weeks from today. The affidavit should also indicate the details of steps taken by the M.C.D. to fill the existing vacancies.

12. Learned Additional Solicitor General has requested for some time to present clear picture about the infrastructure facilities and the position of these posts lying in various part of the country, pursuant to the affidavit dated 20th October, 2009, by Dr. Binod Kumar Singh, Registry, National University of Educational Planning and Administration, New Delhi [for short, 'National University']. We are told that National University has been set up under the Human Resources Development Ministry. Let an affidavit be filed by a senior official on behalf of the Union of India. Place the petition on 17th February, 2010.