**Before The Hon'ble State Administrative Tribunal At Shimla**

OA No.:\_\_\_\_\_\_ of 2004

Applicant

Versus

Respondents

Application Under Section 19 of the Administrative Tribunals Act, 1985

Shimla Applicant

\_\_\_\_\_\_ Through, Advocate

Respectfully Sheweth :

1. Particulars of the Applicant

 As given in the Memo of Parties.

2. Particulars of the Respondents

 As given in the Memo of Parties.

3. Impugned Order:

That the applicant is aggrieved by the impugned order of the respondents whereby they have selected and appointed the respondent No. \_\_\_\_\_\_ as Para Teacher Primary for GPS \_\_\_\_\_.

4. Jurisdiction

That the applicant declares that the subject matter is within the jurisdiction of this Hon'ble Tribunal.

5. Limitation:

That the applicant further declares that the application is within the limitation.

6. Facts of the Case:

6.1 That the applicant submits that he has applied for the post of Para Teacher Primary in Govt Pry School \_\_, under Block Primary Education Officer \_\_ and under Gram Panchayat \_\_. The applicant also belongs to the same Gram Panchayat.

6.2 The applicant possesses the following qualifications and certificates which were duly annexed alongwith the application and the last date of submissions of application was \_\_\_\_\_:-

- Matriculation \_\_% marks A-\_\_

- Plus Two \_\_% marks A-\_\_

- BA \_\_% marks A-\_\_

- MA \_\_%marks A-\_\_

- B. Ed. \_\_% marks A-\_\_

- SC A-\_\_

- ST A-\_\_

- OBC A-\_\_

- Handicap A-\_\_

- Widow A-\_\_

- Land Donation A-\_\_

- Ex-Servicemen A-\_\_

- IRDP A-\_\_

6.3 That the interview for the said posts were held at \_\_\_\_ on \_\_\_\_ in which the applicant alongwith the respondent No. \_\_\_\_ and other candidates participated. \_\_\_\_

6.4 That the marks are to be allocated in the manner prescribed in the Vidya Upasak Yojna, as per which the applicant viz-a-viz Respondent No. \_\_\_\_ scores the marks as follows:-

**S.No. Qualification Applicant Respondent**

**- Plus Two \_\_ \_\_**

 **(50) (for \_\_% marks) (For \_\_% marks)**

**- BA & above \_\_ \_\_**

 **(10)**

**- \_\_ \_\_ \_\_**

 **(One Year Teaching Course)**

 **(5)**

**- SC/ST/OBC \_\_ \_\_**

 **(5)**

**- Handicap/Widow/ESM \_\_ \_\_**

 **(5)**

**- IRDP \_\_ \_\_**

 **(5)**

**- Un-employed \_\_ \_\_**

 **(5)**

**- Marks in Viva \_\_ \_\_**

 **(15)**

**Total Marks \_\_ \_\_**

6.5 That from above it is amply evident that the applicant scored more marks than the respondent No. \_\_ due to higher academic qualifications and standard. However, there are 15 marks for viva which are to be given by the Chairman and the members (BPEO, CHT, Pradhan).

6.6 That \_\_\_\_\_

**GROUNDS**

6.7 That feeling aggrieved by such an arbitrary, malafide, discriminatory and illegal actions of the respondents, the applicant seeks the indulgence of this Hon'ble Tribunal on the following grounds amongst others, which may be taken at the time of arguments, each one of which is without prejudice to and independent of others :-

(a) That the impugned orders of selection and appointment issued by the respondent department are arbitrary, malafide, illegal, ultra vires, against the Articles 14 and 16 of the Constitution of India, dehors the rules and regulations and against the natural justice.

(b) That the respondent State has formulated HP Primary Assistant Teacher (PAT) Scheme 2003 on the lines of Vidya Upasak Yojna-2001 for selection/appointment of Para Teachers with the underlying rationale that "task of universalisation of Elementary Education is gigantic keeping in view the tough geographical conditions in HP and the non-availability of trained teaching man power. The trained teachers available in the urban and other developed areas are not willing to serve in the remote places as a result of which most of our schools in such areas are without teachers.

(c) \_\_That as is evident from the above, the Scheme envisages maximum of 6 marks for Graduate and above. As such where one of the candidate is barely graduate and the other candidate is MA or above, the marks are to be given differently for both, ie; the candidate possessing qualification higher than BA is to be given more marks and a simple graduate is to be given lesser marks out of 6 marks. It is also pertinent to submit herewith that simple graduate qualifies for no post of teaching, whereas on the contrary a candidate possessing MA qualifies to be appointed as Lecturer in 10+2 Schools and as such also different marks are to be given for BA and MA or higher qualifications, which was not done in the instant case and thus the action of the selection board is arbitrary, illegal and contrary to the objective of the Yojna.

(d) That the allocation of marks is totally wrong, arbitrary and illegal and has no nexus with the rationale and objective of the Yojna. The rationale and objective is to recruit best available teachers. \_\_However, by allocating marks for handicapped and ST/OBC, the end result will be that there will be 100% recruitment of the candidates belonging to these categories. Such an allocation of marks is unconstitutional and ultra vires.

(e) That the respondent department has not conducted selection in consonance with the above guidelines.

(f) That the respondents are estopped due to their own act, deed and conduct. The principle of the Promissory Estopple applies against the respondents.

(g) That the impugned order is against the well settled principles of the law as laid down by the Hon'ble Supreme Court and this Hon'ble Tribunal in catena of cases.

7. Reliefs Sought:

That the applicant, therefore, prays that your Lordship be pleased to issue an appropriate writ, orders or directions to grant the following reliefs in favour of the applicant in the interest of justice:-

(a) Quash the impugned selection and appointment order A-\_\_ whereby the respondent department has selected the respondent No. \_\_, being issued arbitrarily, malafide and illegally by the respondents;

(b) Direct the respondents to select and appoint the applicant against the post of Primary Assistant Teacher on the basis of merit \_\_, with all the consequential benefits;

(c) \_\_Quash the HP Primary Assistant Teacher (PAT) Scheme 2003 to the extent it allocates marks for ST/handicapped persons as it will bring about undue un-equilibrium in recruitment as there will be 100% induction of the persons belonging to the categories of SC/handicapped;

(d) Direct the respondents to produce all the relevant documents alongwith their reply for perusal by this Hon'ble Tribunal;

(e) Allow the cost of this OA;

(f) Pass such other order or directions as deemed fit and proper in favour of the applicant.

AND FOR THIS ACT OF KINDNESS, THE HUMBLE APPLICANT AS IN DUTY BOUND, SHALL EVER PRAY.

8. Interim Orders, If Prayed:

That it is most respectfully prayed that during the pendency of this OA the operation of the impugned order/action of selection and appointment \_\_\_\_\_ of the respondents whereby they are going to appoint the respondent No. \_\_\_\_\_, may kindly be stayed during the pendency of this OA in the interest of justice.

9. Details of Remedies Exhausted:

That the applicant submits that since the matter being of an urgent nature, there is no other alternative speedy and efficacious remedy available to him except to approach this Hon'ble Tribunal.

10. Matter not Pending with any Other Courts Etc:

That the applicant further declares that the matter regarding which this application has been made, is not pending before any court of law or any other Authority or any other bench of this Hon'ble tribunal.

11. Particulars of Court Fees:

Court fees worth Rs 50/- is attached herewith.

12. Details of Index:

An index containing the details of the documents to be relied upon is enclosed herewith.

Shimla Applicant

\_\_\_\_\_\_ Through, Advocate

Verification:

 I,\_\_\_\_\_\_, do hereby verify that the contents of paras 1 to 12 of the above OA are correct and true and no part of it is false and nothing material has been concealed therein.

Verified here at Shimla this \_\_\_\_\_\_.

**BEFORE THE HON'BLE STATE ADMINISTRATIVE TRIBUNAL AT SHIMLA**

OA No.:\_\_\_\_\_\_ of 2004

Applicant

Versus

Respondents

Affidavit in support of OA under Section 19 of the Administrative Tribunals Act 1985

 I,\_\_\_\_\_\_, do hereby solemnly, affirm and declare as under :-

1. That the accompanying OA has been prepared under my instructions.

2. That the contents of paras 1 to 12 of the accompanying application are correct and true to the best of my knowledge.

3. That I further solemnly affirm and declare that this affidavit of mine is correct and true to the best of my knowledge and no part of it is false and nothing material has been concealed therein.

Affirmed at Shimla this the \_\_\_\_\_\_.

**BEFORE THE HON'BLE STATE ADMINISTRATIVE TRIBUNAL AT SHIMLA**

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Shimla Applicant

\_\_\_\_\_ Through, Advocate