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Man from India wins bias case against Garfield District

Labor panel orders that well-qualified man be put on substitute teacher hiring list

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When Harshad P. Desai moved to Panguitch to run a hotel with his wife near Bryce Canyon, he decided he could put his two master's degrees to use by teaching in the public school system.

"It's something I can do and this community needs it," he remembers thinking. But in 2001 the Garfield School District deemed him unfit for hiring.

On Monday, the Utah Labor Commission announced that the district had discriminated against Desai, a substitute teacher applicant, based on his race, ethnicity, color and religion. According to the Labor Commission, Desai, who is now 58, had passed a criminal background check and was well-qualified for the job, which was advertised multiple times in the local newspaper. After submitting an application, Desai was invited to participate in a substitute teacher training session, but his name was later removed from a list of 26 applicants to be approved by the board, and he was notified by mail that the district was "not in need of his service."

The India native, who is a practicing Hindu, has two master's degrees, one in chemistry and the other in engineering. Desai had hoped to teach basic math, chemistry or science in Panguitch, which, he said, is mostly Caucasian and LDS.

Desai was the only applicant denied placement on the substitute teaching list, including some with "far less impressive resumes," according to the commission's written order, which states that a Realtor, cosmetologist and other people without college degrees were permitted to teach. During the same period, "the district had at times allowed persons with actual criminal charges, some involving minors, to remain on the substitute teacher list," according to the commission.

The Labor Commission further stated that "the evidence suggests that minority employees in the school district have not been hired into the teaching ranks, substitute or otherwise." The superintendent at the time, Myron Cottom, said the district did have two minority employees, both of whom were Hispanic. One worked as a janitor, the other as a secretary.

Officials with the Garfield School District did not return calls for comment to the Deseret News on Tuesday, but a temporary secretary mentioned that they had not heard anything about the official ruling made on Aug. 27. The district has the right to appeal the commission's decision and has 30 days from the date of the decision to do so.

When the school district was asked why it chose not to approve Desai, the Labor Commission found "extreme evidence of deception and cover-up." The commission held that Desai had been the subject of racial profiling based on perceived similarities to the 9/11 terrorists. In November of 2001, then-Superintendent Cottom called the police to relay a report that a suspicious individual — Desai — was attending the teacher training. Some teachers in attendance were worried that Desai might be a terrorist.

The Labor Commission also found that district officials were worried Desai might be violent because of how he reacted to some teenagers who had harassed him because of his ethnicity while driving past the hotel he owned with his wife. Desai said Tuesday that he is not one to pick

a fight, but he had made a reference to Osama bin Laden in a letter to the district, telling them he was confused at their actions when they chose not to hire him, even though they were still looking for substitute teachers.

"I have three daughters, and if I don't influence and educate them on a daily basis, they are likely to end up at the bottom of the barrel," Desai said. "And that is what happens here. I don't blame the kids, I blame their parents and the adults for not taking the responsibility to teach them."

The Labor Commission has ordered the district to place Desai on the current substitute teacher list and ensure that he is called to work as much as anyone else on the list. In addition, a judge with the adjudication division has ordered the district to pay Desai compensation, plus interest, based on average pay records for substitute teachers from October 2001 to July 2009. Substitute teachers are paid \$60 for each day they work at schools within the district. Desai said he had no idea how much compensation he is owed.

"I want to make a career in education, and I want it to be here in Panguitch," Desai said. He moved his family to the area from California after they had vacationed at Bryce Canyon. He hopes to get his foot in the door with the substitute teacher position and "find out what is required to teach and perhaps get further up," he said. When he applied in 2001, it was in response to a legislative edict to hire more teachers, emphasizing a shortage of them in rural areas of the country.

The district has been ordered to implement and monitor existing policies to prevent future discriminatory activity.

"Discrimination is a way of life around here," Desai said. "I regret that I have to follow due process and go through all these things, but it is something that has to be done."

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