

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C.) No. 1846/2010**
% **Date of Decision: 18th MARCH, 2010**

PARVINDER KUMAR PETITIONER

! Through: Mr. Jagdev Singh, Advocate.

VERSUS

\$ DSSSB & ANR. RESPONDENTS

^ Through: Mr. Anjum Javed for the respondent
No. 1/DSSSB.
Ms. Latika Choudhary for counsel for the
respondent No. 2/SCERT.

CORAM:
Hon'ble MR. JUSTICE S.N. AGGARWAL

1. Whether reporters of Local paper may be allowed to see the judgment? **YES**
2. To be referred to the reporter or not? **YES**
3. Whether the judgment should be reported in the Digest? **YES**

S.N.AGGARWAL, J (ORAL)

The Delhi Subordinate Services Selection Board (DSSSB) had issued an advertisement on 26.12.2009 inviting applications from eligible candidates for filling up of 4,500 vacant posts of Teachers in MCD and in schools under Government of NCT of Delhi. One of the terms of eligibility to apply for the post was regarding age limit of the candidates which was between 20-27 years relaxable in case of reserved category candidates. The petitioner was overage on the date of advertisement for his appointment to the post of Teacher advertised by respondent No. 1 on 26.12.2009. He has filed this writ petition seeking directions against the respondents that he should be allowed to participate in the Primary Teacher examination by granting age relaxation to him.

2 The case of the petitioner is that he had taken admission in Two-year Elementary Teachers Education Training Course (in short ETE course) run by State Council of Education Research & Training (respondent No. 2 herein) in 2006-08 batch. At the time of his admission, the age limit for taking admission by the candidates in ETE course was between 17-30 years relaxable by 5 years in case of reserved category candidates. At the time the petitioner had taken admission in ETE course in 2006-08 batch, in terms of recruitment rules for appointment to the post of Teachers in schools under MCD and under Government of NCT of Delhi, the age limit for eligibility was between 19-32 years in case of males and 19-42 years for females. The recruitment rules for the post of Teachers were amended by the MCD and also by Government of NCT of Delhi whereby the age limit for Teachers was reduced uniformly to 20-27 years. The candidates who had passed out the ETE course in 2006-08 batch had challenged the amendment of recruitment rules whereby the age limit was reduced to 20-27 years in a batch of writ petition decided by the Division Bench of this Court in case titled as **Sachin Gupta & Others Vs. Delhi Subordinate Services Selection Board through its Chairman & Others**, reported as **152 (2008) DLT 378 (DB)**. In that case, the Division Bench, as one time measure, gave age relaxation to all those candidates who had passed out ETE course in 2006-08 batch and permitted them to participate in the selection process held for recruitment of Teachers at that time making it clear that the relaxation so granted by the Court would cease to operate for the ETE courses after 2008, that is, commencing from 2009. Para 59 of the said judgment of the Division Bench is relevant and is extracted below:-

“59. However, considering that the maximum age prescribed for the post of Assistant Teachers (Primary) for the MCD and NCT has been reduced from 32 years for males and 42 years for females to 27 years, we are of the view that this would cause hardship to candidates already enrolled in the ETE course, who might suddenly find themselves over-age and ineligible. With a view to ameliorate this hardship **and as a one-time measure**, following the ratio in the case of Anuj Johri v. Union of India and Ors. Reported in 2005 III AD (DELHI) 614;, it is directed that the respondents would permit all those candidates who have completed the ETE course either in the year 2006 or 2007 or 2008 to appear in the examination conducted by the Respondents for the posts of Assistant Teachers (Primary) once each of the Respondents i.e. MCD and Govt. of NCT of Delhi provided they do not exceed the upper age limit of 32 years for males and 42 years for females and also fulfill all other eligibility conditions. This would also apply to candidates, who have already taken the examination as permitted by this Court. This relaxation will be independent of the relaxation applicable to reserved categories. **However, the Relaxation granted by this Court shall cease to operate for the ETE courses after 2008 i.e. Commencing from 2009** as from 30th September, 2007 the maximum age limit for ETE course has been reduced from 30 years to 24 years. ”

(Emphasis added)

3 In the present case, though the petitioner had taken admission in ETE Course in 2006-08 batch but he could not pass out the said ETE Course in 2006-08 batch. He admittedly passed the ETE Course in 2007-09 batch. In the prospectus issued by the respondent No. 2 for admission of candidates in 2007-09 batch of candidates, the following clause regarding age limit was inserted:

“2. Age limit

- (a) X X X X
- (b) X X X X
- (c) X X X X

(d) At present the Recruitment Rule for appointment as Asstt. Teacher/Primary Teacher in Delhi schools stipulate 27 year as the maximum age. SCERT does not take any responsibility for any person who completes the said course late, and therefore becomes ineligible for appointment as peer RRs. ”

4 A reference to the above clause would show that the petitioner was put to a notice by respondent No. 2 that as per prevalent recruitment rules for appointment as Assistant Teacher/Primary Teacher in Delhi schools, the maximum age limit is 27 years and the State Council of Education Research & Training will not be responsible in case any person

completing the said ETE Course is ineligible for appointment on account of overage as per recruitment rules.

5 Mr. Jagdev Singh, learned counsel appearing on behalf of the petitioner, contends that the stipulation regarding age limit contained in the prospectus issued for the candidates who took admission in 2007-09 batch is not applicable to the petitioner as, according to him, the petitioner took admission in 2006-08 batch in which there was no said condition of age limit. This argument is wholly devoid of any merit. It is not disputed by the learned counsel appearing on behalf of the petitioner that the petitioner had passed ETE Course in 2007-09 batch and, therefore, the condition regarding age limit mentioned in the prospectus for 2007-09 batch is binding on petitioner also.

6 The Division Bench of this Court in **Sachin Gupta's case** has categorically held that the benefit of age relaxation granted in that case will cease to operate for the ETE Courses after 2008, that is, commencing from 2009. The benefit of age relaxation in that case was given by the Division Bench of this Court as one time measure and was specifically order not to extend the said benefit to candidates who may do ETE Course after 2008. The directions given by the Division Bench in **Sachin Gupta's case** are binding on this Court. In that view of the matter, the petitioner is not entitled for any age relaxation as he admittedly was overage on the date of advertisement.

7 In view of the foregoing, I do not find any merit in this writ petition, which fails and is hereby dismissed in limine.

MARCH 18, 2010
'BSR'

S.N.AGGARWAL, J