

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on 21.05.2012

+ W.P.(C) 3038/2012

GOVT. OF NCT OF DELHI AND ORS

... Petitioners

Versus

MUKESH VATS AND ORS

...Respondents

Advocates who appeared in this case:

For the Petitioner : Ms. Avnish Ahlawat with Ms. Urvashi Malhotra

For the Respondent : Ms. Amita Kalkal Chaudhary for Mr. Naresh Kaushik

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE V.K.JAIN

JUDGMENT

BADAR DURREZ AHMED, J. (ORAL)

Caveat No. 525/2010 in WP(C) No. 3038/2012

The learned counsel for the Caveators/Respondents is present. The Caveat stands discharged.

WP(C) No. 3038/2012 & CM No. 6556/2012 (u/S 151 CPC for stay)

1. This writ petition is directed against the order dated 3.01.2012 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred

to as “the Tribunal”) in Original Application No. 1618/2011.

2. The respondents had filed the said Original Application as they had sought age relaxation on the ground that they were sportsmen. They had based their claim on two Office Memoranda (OMs) being OM dated 4.8.1980 and OM dated 12.11.1987, which, according to them, if read in conjunction with each other would entitle them to the age relaxation that they were seeking for the Group ‘B’ Post of Teacher (Physical Education) bearing post code No. 18/10 advertised by the Delhi Subordinate Services Selection Board (DSSSB), through their advertisement No. 1/10 dated 22.2.2010. The Tribunal after considering the arguments raised on both sides allowed the Original Application with the direction to the respondents therein (the petitioners herein) to grant the benefits of age relaxation in the upper age limit as per OM dated 12.11.1987 to the applicants (respondents herein). It was also indicated that if they were otherwise found fit and eligible, they shall be given appointment as Physical Education Teachers in the Directorate of Education within a period of 02 months from the date of receipt of a copy of the said order. The Tribunal also directed that the applicants would be entitled to consequential benefits except back wages.

3. Since the respondents had rested their case on the two OMs, it would be necessary to point out that insofar as the first OM i.e., OM dated 4.8.1980 is concerned, that clearly applied only to Group ‘C’ and Group ‘D’ posts. However,

the OM dated 12.11.1987, in our view, applies to all groups of Civil Posts/Services except those which are filled through competitive examinations conducted by the UPSC. The reason for this will become clear shortly.

4. The said OM dated 12.11.1987 is as under:

“Sub: Relaxation of upper age limit for meritorious sportsmen/sportswomen for appointment in the Central Government

The undersigned is directed to say that orders were issued for appointment of meritorious sportsmen/sportswomen in Group ‘C’ and ‘D’ posts in relaxation of the recruitment procedure vide this Department’s OM Nos. 14015/1/76-Estt.(D) dated 4th August, 1980 and 14034/7/85-Estt.(D) dated 18th September, 1985 (copies enclosed). The question of giving further concessions to this category has been engaging the attention of the Government for some time past. In particular, a proposal to extend the concessions of age relaxation for entry of the sportspersons into Government Service has been under consideration.

2. The matter has been carefully considered in consultation with the UPSC, the Ministry of Law and the Department of Youth Affairs and Sports. It has now been decided that the categories of sportsmen/sportswomen specified in para (a) of this Departments OM dated 4.8.1980 may be allowed relaxation in upper age limit upto a maximum of 5 years (10 years in the case of those belonging to Scheduled Castes and Scheduled Tribes) for the purpose of appointment to all Groups of Civil posts/services under the Government of India filled otherwise than through competitive examinations conducted by the UPSC. This concession will be available only to those sportspersons who satisfy all other eligibility conditions relating to educational qualifications etc. and furnish a certificate in the form and from an

authority prescribed in the OM dated 6th August, 1980. Sub-para (b) of paragraph 1 of this OM would be deemed to have been amended to this extent.”

(Underlining added)

5. A plain reading of the said OM indicates that the subject with which it was concerned was relaxation of upper age limit of meritorious sportsmen/sportswomen for appointment in the Central Government. It clearly indicates that earlier the OM dated 4.8.1980 dealt with the question of relaxation of the age limit insofar as Group ‘C’ and Group ‘D’ posts were concerned. However, the question of giving further concessions to the category of meritorious sportsmen/sportswomen had been engaging the attention of the Government for some time. It was in this context that a proposal had been made to extend the concession of age relaxation for entry of sportspersons into Government service. In this backdrop, the Government of India (Department of Personnel and Training) had, in consultation with the UPSC, the Ministry of Law and Department of Youth Affairs and Sports, come to a decision that the categories of sportsmen/sportswomen specified in paragraph ‘a’ of the OM dated 4.8.1980 be allowed relaxation in upper age limit upto a maximum of 05 years (10 years in the case of those belonging to Scheduled Castes and Scheduled Tribes) for the purpose of appointment to “all groups of Civil Posts/Services under the Government of India filled otherwise than through the competitive examination conducted by the UPSC”.

6. There is no dispute that this OM is applicable to the petitioners. The only

point urged before the Tribunal on behalf of the petitioners was that the age relaxation granted in the OM of 12.11.1987 pertained only to Group 'C' and Group 'D' posts and not to the Group 'B' posts to which the respondents herein were seeking appointment. The Tribunal repelled the contention of the petitioners.

7. We have also examined the two OM's viz., OM dated 4.8.1980 and 12.11.1987 and are clear that while the first OM dated 4.8.1980 pertained to age relaxation in respect of meritorious sportspersons for Group 'C' and Group 'D' posts, the second OM dated 12.11.1987 extended that age relaxation to all groups of Civil Posts/Services under the Government of India filled otherwise than through the competitive examinations conducted by the UPSC. Since the Government of NCT of Delhi has adopted the said OM's, the interpretation that is to be given would be that the same age relaxation is to be given for the purpose of appointment to all groups of civil posts/services under the Government of NCT of Delhi filled otherwise than through the examinations conducted by the UPSC. This being the case the Tribunal cannot be faulted for arriving at the conclusion that it did. The respondents are clearly covered by the said OM's read in the manner indicated above.

8. Consequently, no interference is called for insofar as the impugned order passed by the Tribunal is concerned except to the extent that we extend the period for implementation of the order by a further 06 weeks. We make it clear that those

of the respondents, who are appointed pursuant to the directions given by the Tribunal, as upheld by this Court, would not be entitled to any seniority or back wages prior to the date of the joining.

With these directions, the writ petition stands disposed of. There shall be no order as to costs.

BADAR DURREZ AHMED, J

V.K.JAIN, J

MAY 21, 2012
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