

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

+ **W.P.(C) No. 5520/2015**

% **27th May, 2015**

DS RANA & ORS. Petitioners

Through: Mr. J.S.Mann, Adv.

versus

GOVT. OF NCT DELHI & ORS Respondents

Through: Mr. Prasanta Varma, Sr. CGSC for R-1.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

CM No. 9930/2015 (delay in filing)

For the reasons stated in the application, delay in filing the writ petition is condoned. CM stands disposed of.

W.P.(C) No. 5520/2015 & CM No. 9929/2015 (stay)

1. By this writ petition filed under Article 226 of the Constitution of India, petitioner questions the action of respondent nos. 1 to 3 whereby after contractual period of employment of the petitioners, petitioners have not

been given employment but other persons have been given contractual employment and which latter persons are below 63 years of age. Petitioners question the impugned order dated 23.6.2014 by which contractual employments of petitioners have not been extended. It is alleged that non-extension of contractual employment of petitioners is an arbitrary action.

2. The facts of the case are that the petitioners were appointed under the Universalization of Elementary Education Scheme framed by the Central Government and executed through the State Government. Petitioners are retired teachers, vice-principals, principals and were appointed on contract basis in Cluster Resource Centre Co-ordinator Programme. Petitioners during the period of service crossed the age of 63 years and now the respondents vide their public notice dated 2.6.2014, have employed persons by specifying a requirement in the notice that a candidate should not be more than 63 years of age as on 1.6.2014.

3. The issue is that whether putting a term of employment of persons only below 63 years of age is in any manner illegal or arbitrary.

4. It is settled law that courts do not substitute their decisions for the decisions of the administrative authorities as to what should be the cut-off

age of employment. Surely courts are ill-equipped to take decisions as to

why a particular age should not be fixed beyond which a person should not be employed. Unless and until a clear-cut case of gross arbitrariness and illegality is found, courts would be over-stepping their jurisdiction in substituting their decisions for that of the administrative authorities by fixing a particular age bar which will be at variance at the age bar which is fixed by the authorities.

5. Counsel for the petitioners argued that petitioners had worked even after the age of 63 years, however that is not the issue because the petitioners worked during the period of their contractual services and contracts have not been renewed after their contractual period has expired. Also, if now there is a conscious decision to fix a particular age bar, it cannot be held that there is any illegality or arbitrariness in such an action of the administrative authority in fixing of an age bar.

6. Dismissed.

MAY 27, 2015
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VALMIKI J. MEHTA, J.