

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

+ **W.P.(C) No. 9483/2015 & CM No. 22253/2015**

% **20th January, 2017**

PRAVEEN KUMAR PANDEY Petitioner

Through: Mr. Ranjit Sharma, Adv.

versus

THE DIRECTOR OF EDUCATION, GOVT. OF N.C.T AND ANR.

..... Respondents

Through: Mr. Sushil Kr. Tripathi, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not? **YES**

VALMIKI J. MEHTA, J (ORAL)

1. By this writ petition under Article 226 of the Constitution of India, the petitioner/Sh. Praveen Kumar Pandey seeks the relief of quashing of the letter dated 24.6.2015 by the respondent no.1/Director of Education and the consequent letter dated 8.7.2015 of the respondent no.2/Satyawati Sood Arya Girls Senior Secondary School denying appointment to the petitioner for the post of Librarian with the respondent no.2/school. These letters dated 24.6.2015 and 8.7.2015 read as under:-

Letter dated 24.6.2015

“OFFICE OF THE DEPUTY DIRECTOR OF EDUCATION
DISTRICT SOUTH EAST, DEFENCE COLONY, NEW DELHI

No.3216

Dated:24/6/15

To

Principal
Satyawati Sood Arya Girls Sr. Secondary School,
Nizamuddin East, New Delhi.

Subject:- Convey of rejection of the recommendation of the SSC to allow 05 years age relaxation to Sh. Praveen Kumar Pandey for the post of Librarian.

Sir,

The recommendation of SSC for the post of librarian was sent to the competent authority referring Delhi gazette notification dated 23rd January 2003 and No.DE 4(19)/3/E-IV/99-Edn/2255-269 dated 16.1.2003 that refers the Recruitment Rules for the post of Librarian. It is stated that age limit for direct recruitment for the post of Librarian is not exceeding 30 years. Relaxable for govt. servants upto 05 years in accordance with the instruction or order issued by the Central Government. In view of the above the proposal of the recommendation of the SSC to allow 05 years age relaxation to Sh. Praveen Kumar Pandey has been rejected by the competent authority. This is for your information please.

(Dr.K.S.Yadav)
DDE (Zone-25)

Letter dated 8.7.2015

“Satyawati Sood Arya Girls
Senior Secondary School
Nizamuddin East, New Delhi-13
(Govt. Aided of Recognized)
Date: 8th July 2015

Ref.No. :SAGS/2015/612

Mr. Praveen Pandey
K-126, Saurabh Vihar
Hari Nagar, Jaitpur, Badarpur
New Delhi-110044
Sub: Appointment as Librarian
Ref: Appointment letter dated

Sir,

This is to inform you that the Directorate of Education, Govt. of NCT, Delhi has declined to grant relaxation of age in your case for appointment to the post of Librarian.

The appointment letter dated-issued to you accordingly stands cancelled.

Thanking you
Yours faithfully
(Vaneet Makkar)

Acting Manager

Encls: Letter of rejection from Directorate of Education, govt. of NCT, Delhi”

2. It is seen that the respondent no.1/Director of Education has refused to grant age relaxation to the petitioner by the letter dated 24.6.2015 and the language of the same is very vague and ambiguous. This letter dated 24.6.2015 simply states that age of Librarian should be up to 30 years with relaxation for government servants up to 5 years and hence relaxation cannot be granted for appointment of the petitioner as a Librarian to the respondent no.2/school.

3. As against the language of the letter dated 24.6.2015, however in the counter-affidavit filed by respondent no.1/Director of Education a different reason is given as it is stated that age relaxation is only for a teacher and not for a librarian. Also, in the counter-affidavit of the respondent no.1/Director of Education, it is stated that the petitioner did not have the requisite experience and which aspect is also not mentioned in the letter of the respondent no.1/Director of Education dated 24.6.2015.

4. A reading of the pleadings in this writ petition, impugned orders, and more particularly the counter-affidavit of respondent no.1/Director of Education, it is seen that the maximum age limit for appointment of a teacher and librarian in a school is 30 years. Petitioner was born on 25.6.1980 and the subject advertisement for appointment of a

Librarian in the respondent no.2/school is dated 2.11.2014. Petitioner therefore was over-age by approximately 4 years 4 months and 7 days as on 2.11.2014. The issue is that whether petitioner is entitled to age relaxation for this period of 4 years 4 months and 7 days. In this regard, learned counsel for the petitioner has rightly drawn my attention to the order of the respondent no.1/Director of Education dated 21.1.2011 which states that in government schools position of a librarian has been equated to a teacher and in fact a librarian is required to take classes. This order of the Director of Education dated 21.1.2011 reads as under:-

“GOVT. OF NATIONAL CAPITAL TERRITORY OF DELHI
ESTABLISHMENT-IV BRANCH, DIRECTORATE OF EDUCATION
OLD SECTT. DELHI-110054

No.DE4(9)/67/E-IV/04/657-667

Dt. 21/1/11

ORDER

The post of Librarian in Govt. Schools of Dte. of Education, Govt. of N.C.T of Delhi is hereby declared as teaching post for all purpose with immediate effect and accordingly the librarians shall avail all benefit applicable to teaching category in prospective manner only. It is further ordered that the librarians shall take classes also besides the work of Library as and when required by concerned HOS/any other higher authority.

This issues with the prior approval of Director of Education.

Sd/-
(SURESH GUPTA)
ADDL. DIRECTOR OF EDU. (ADMN)”

5. As per Section 10 of the Delhi School Education Act, 1973, employees of private schools have to be considered at par with employees of government schools so far as grant of monetary benefits are concerned, and since employment as a librarian obviously will result in monetary

benefits, and therefore, employment of a teacher/librarian in a private school has to be on the same terms and conditions as government schools. In fact, the respondent no.2/school is an aided school with 95% of the aid being granted by the Director of Education. Therefore, in the opinion of this Court petitioner will be entitled to the benefit of the circular of the respondent no.1/Director of Education dated 21.1.2011 whereby and since a librarian is treated as equal to a teacher, the benefit of age relaxation to a teacher will also be applicable to appointment of a librarian in schools in Delhi.

6. The second issue is as to the entitlement of the petitioner to age relaxation on account of teaching in a recognized school, and this aspect is found in the relevant circular dated 3.5.1976 of the respondent no.1/Director of Education and which reads as under:-

“Relaxation of age limit for recruitment of various categories of teachers

The question of granting relaxation of maximum age limits for the recruitment of various categories of teachers under the Delhi Education Act and the Rules framed thereunder had been under consideration of the Department for some time past.

A reference was made in the connection to the Govt. of India seeking their approval for granting relaxation in age for various categories of teachers. The Minister of Education vide their D.O.letter No.F44-7/75/UTI dated the 29th October 1975 in consultation with the objection from the legal angle to grant relaxation in age to the following 4 categories of persons, they possess other qualifications:

- i) Persons who have been left as destitute due to death of their husbands/wives or parents.
- ii) Dependants of those persons who have been incapacitated during active service.

iii) Persons who had already been in service in an institution but had left the institution due to some special reasons and now seek appointment again for meeting their ends.

iv) Persons who have experience of teaching in recognized schools. The number of years of teaching experience may be added to the maximum age limit and relaxation be allowed to the extent of 15 years to the maximum age limit.

The Director of Education has, therefore, ordered that relaxation in age limit may be allowed in cases of all the recognized schools, whether aided or not, under their jurisdiction and they may be informed about these relaxations which can be granted now to various categories of teachers at the time of recruitment. The cases for approval of appointments may be also be forwarded to the Director of Education keeping in view of these relaxations which could be allowed how under orders of the Govt. of India.

This relaxation would be granted by the Director of Education on the recommendations of the Selection Committee.

This issues in partial modifications of this office order even number dated 1.12.1975

[Dte. of Edn., vide No.F.32/1/84/Gen/75/dt. 3.5.1976]”

7. Petitioner seeks application of sub-para (iv) of the circular dated 3.5.1976 of the respondent no.1/Director of Education as per which the number of years of teaching in recognized schools has to be added to the maximum age and relaxation of which age can go up to as many as 15 years i.e up to 45 years. Petitioner only seeks benefit of age relaxation of 4 years 4 months and 7 days and which is well below 45 years.

8. Learned counsel for the petitioner has placed reliance upon the teaching experience certificate of the petitioner at St. Giri Inter College, Abdullahpur, Meerut (U.P) and which shows that the petitioner worked as a librarian with St. Giri Inter College, Abdullahpur, Meerut (U.P) from 1.11.2009 to 31.10.2014 i.e a period of five years. Petitioner therefore is, subject to observations made below, entitled to claim age relaxation up to

the age of 35 years and petitioner is only seeking relaxation of age up to 4 years 4 months and 7 days.

9. In view of the sketchy order/letter of the respondent no.1/Director of Education dated 24.6.2015, and an emaciated but a totally differently reasoned counter-affidavit of respondent no.1/Director Of Education of about two pages only taking the defences of disentitlement of the petitioner for age relaxation which is applicable allegedly only to teachers and not librarians and that the petitioner does not have the experience certificate for age relaxation, it is found that ordinarily the petitioner should be confirmed in the appointment to the post of librarian with the respondent no.2/school, and which I would have done so, except that the issue is not clear as to whether the experience certificate which is required of teaching in a school should be of teaching in a school in Delhi or will include an experience certificate of teaching/being a librarian even in a school outside Delhi. Therefore, this writ petition is disposed of by setting aside the letter of the respondent no.1/Director of Education dated 24.6.2015 and the consequential letter of the respondent no.2/school dated 8.7.2015 and now the respondent no.1/Director of Education will consider the case of the petitioner for age relaxation taking the post of librarian as being entitled to the benefit of age relaxation and the respondent no.1/Director of Education will examine the issue of entitlement of the petitioner to age

relaxation as per the experience certificate of the petitioner at St. Giri Inter College, Abdullahpur, Meerut (U.P) as to whether even experience as a librarian/teacher outside Delhi can be considered for age relaxation.

10. In view of the above, this writ petition is disposed of in terms of the aforesaid observations and the matter is remanded to the Director of Education to decide by himself or through his nominee as to whether petitioner is entitled to age relaxation on the basis of the certificate dated 31.10.2014 of St. Giri Inter College, Abdullahpur, Meerut (U.P), and which certificate should be considered by the Director of Education ordinarily/normally as sufficient certificate unless there is a circular of the Director of Education or any legal provision that teaching experience can only be counted for age relaxation if the teaching certificate is only of a school in Delhi. Petitioner, who is seeking appointment to the post of librarian will be treated as equivalent to a teacher in view of the circular of the Director of Education dated 21.1.2011, and petitioner cannot be denied age relaxation on the ground that petitioner's appointment is as a librarian and not as a teacher. The Director of Education or his nominee will hear the petitioner after issuing notice to him and pass appropriate orders in accordance with law within a period of two months from today. Parties are left to bear their own costs.

JANUARY 20, 2017/ib

VALMIKI J. MEHTA, J