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

+ **W.P.(C) 756/2018 and CM APPL. 3156/2018**

DINESH

..... Petitioner

Through: Mr. S.D. Singh, Mr. Rahul Kumar Singh
and Mrs. Shweta Sinha, Advocates

versus

STATE OF NCT DELHI & ORS

..... Respondents

Through: Ms. Vibha Mahajan Seth, Advocate for
R-1/GNCTD and R-2/DSSSB.

Mr. Dheeraj Gupta, Advocate for R-3/MCD.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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01.02.2018

1. The present petition has been filed by the petitioner, who is aggrieved by the order dated 15.09.2016 passed by the Tribunal, dismissing O.A. No.401/2015 filed by her, wherein she had sought quashing of the order dated 05.12.2014, issued by the respondent No.1/GNCTD and the respondent No.2/DSSSB, declaring her overage for the post of Primary Teacher, in pursuance to the Advertisements No.004/2009 and 070/2009. The petitioner is also aggrieved by the order dated 21.11.2017 passed by the Tribunal, dismissing the review application filed by her for seeking review of the order dated 15.09.2016.

2. The main grievance of the petitioner is that the Tribunal has declined her relief only on the ground that she does not possess the ETE qualification and observed that as a result, the benefit of age relaxation given in the judgment of the High Court in Sachin Gupta and Ors. vs. DSSSB and Ors. reported as **152(2008) DLT 378 (DB)** cannot be extended to her.

3. It is submitted by Mr. S.D. Singh, learned counsel for the petitioner that the issue of equivalence of the ETE degree with the JBT degree granted to the petitioner in the State of Haryana, stands decided by a Division Bench of this Court vide judgment dated 20.07.2016 in **W.P.(C) 3104/2016 "DSSSB vs. Praveen Kumar"**. He particularly refers to para 12 of the said decision and states that once the petitioner is able to demonstrate equivalence of the ETE degree vis-a-vis a Diploma in Education conferred on the petitioner in Haryana, vide JVT certificate, then the issue of age relaxation to the petitioner ought to have been considered favourably and decided by the Tribunal in terms of the judgment in the case of Sachin Gupta (supra). Para 12 of the judgment in Praveen Kumar (supra) is reproduced hereinbelow: -

"12. There is an agreement between the parties which is also borne out from the fact that the respondent was permitted to appear in the examination as far as the educational qualifications were concerned, which means that he was eligible. The equivalence of the ETE course and the diploma in Education is not in dispute. However, in Delhi, the nomenclature is certificate in ETE course while in other states a different nomenclature is adopted, for example in Bhopal, it is diploma in Education, in Haryana, it is JVT and similarly, BLT is in some other state. Learned counsel for the respondent has submitted that there cannot be a difference in criteria for the same post for different states as this was not the objection in terms of the advertisement and in case, a candidate who had

completed ETE course from Delhi is to be given age relaxation as per the decision in Sachin Gupta (supra), the same age relaxation should be provided to the persons who are identically placed in terms of educational qualification."

4. Learned counsel for the respondents states that even if the petitioner overcomes the objection of the Tribunal with regard to non-possession of the ETE degree, she will still not be eligible for age relaxation as the judgment in the case of Sachin Gupta (supra) is distinguishable on facts.

5. Having perused the two page decision of the Tribunal in this case, we find that the petitioner has been non-suited simply on the ground that she does not possess an ETE degree, which *prima facie* appears to be an erroneous view in the light of the judgment of the Division Bench in the case of Praveen Kumar (supra). It seems that the learned Tribunal has not examined the aforesaid decision in the correct prospective. If the petitioner meets the eligibility criteria on the educational qualifications possessed by her, then an opportunity ought to be granted to her to address the Tribunal on the aspect of age relaxation, by referring to the decision in Sachin Gupta (supra). No such occasion has arisen as the petitioner has been thrown out at the threshold, only on the ground of non-possession of the ETE degree.

6. We are therefore of the view that the impugned orders dated 15.09.2016 and 21.11.2017 cannot be sustained and are accordingly quashed and set aside. O.A. No.401/2015 is restored to its original position. The parties shall be entitled to take all the pleas before the Tribunal, as may be available to them both, on facts and in law, for a fresh adjudication. The Tribunal shall pass a fresh order, uninfluenced by the observations made hereinabove.

7. As we are informed that pleadings in the aforesaid O.A. are complete, the parties are directed to appear before the Registrar, Central Administrative Tribunal on 20.02.2018, for him to fix an actual date of hearing before the Tribunal.

HIMA KOHLI, J

REKHA PALLI, J

FEBRUARY 01, 2018

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