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

+ W.P.(C) 13933/2018

GOURAV DHULL

..... Petitioner

Through: Mr. Harpreet Singh, Mr. Ashok Kumar
Dhull, Mr. Prateek Mehta and
Mr. Vivek Kumar, Advocates.

versus

GOVERNMENT OF NCT OF DELHI & ORS Respondents

Through: Ms. Avnish Ahlawat, Standing
Counsel, GNCTD (Services) with
Ms. Palak Rohmetra, Adv. for R-1 & 2.
Ms. Pooja Chandra, Adv. for R-3.
Mr. Amit Singh Chauhan, ASC for R-4.
Ms. Manisha Agarwal and Ms. Vineeta
Bansal, Advs. for EDMC.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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21.12.2018

C.M. No. 54520/2018

1. Exemption allowed, subject to all just exceptions. The application stands disposed of.

W.P.(C) 13933/2018 and C.M. No. 54521/2018 (for stay)

2. The petitioner assails the order dated 14.11.2018 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (in short 'Tribunal') in OA No. 1187/2015. The Tribunal rejected the petitioner's said Original Application wherein he had assailed the rejection notice dated 05.12.2014 issued by respondent No.2-Delhi Subordinate Services Selection Board, whereby, the candidature of the petitioner was rejected on the ground that he did not have the Certificate of the Diploma Course undertaken by him, on the cut-off date

i.e. 15.01.2010.

3. The advertisement in question for the post of Teacher (Primary) in MCD under Post Code 70/2009 prescribed an essential qualification of two years' diploma/certificate course in ETE/JBT or B.El.Ed. from recognised institution or its equivalent. The advertisement provided that the educational qualification, age, experience and other conditions of eligibility as stipulated shall be determined as on the closing date of receipt of the applications, which was admittedly 15.01.2010; though the same was subsequently extended upto 17.10.2011. The petitioner does not dispute the fact that the date of eligibility was pegged at 15.01.2010 and the certificate of his eligibility was issued on 04.02.2010.

4. The petitioner undertook the competitive examination and cleared the same, however, his candidature was rejected for the aforesaid reason vide rejection notice dated 05.12.2014, which he assailed before the Tribunal. The Tribunal has held that in view of the settled position of law that the candidate should meet the eligibility criteria on the cut-off date, his candidature could not be considered since the petitioner did not meet the said criteria on the said cut-off date.

5. The submission of the petitioner is that the petitioner suffers from 76% locomotor disability and hence applied under the OH (Orthopaedically Handicapped) category. Though he had undertaken the requisite diploma course and would normally have been issued the certificate prior to the cut-off date, on account of case being instituted in the Madhya Pradesh High Court and stay operating in respect of the declaration of result, the issuance of the certificate was delayed and it was issued on 04.02.2010 i.e. about 19 days after the cut-off date. His further submission is that even though the last date for submission of the application was extended to 17.10.2011, the cut-off date was pegged at 15.01.2010 and the same should also have been extended.

6. We have perused the impugned order and the documents relied upon by the petitioner. No doubt, the present is a difficult case and we sympathise with the petitioner considering his circumstances. However, we cannot come to the aid of the petitioner, since the position in law is well settled that the candidate should meet the eligibility criteria on the cut-off date that may be fixed by the Recruiting Agency. There would be number of other aspirants, who may not have met the eligibility conditions on the cut-off date and may have not applied in response to the said advertisement for this reason. In this background, according relaxation to the petitioner would not be fair to them. Making an exception in the case of the petitioner would also tantamount to breach of the Examination Rules, which will open floodgates and destroy the sanctity attached to the cut-off date fixed by the Recruitment Agency.

7. However, we are of the view that considering the circumstances of the petitioner, as taken note of hereinabove, in case, a fresh recruitment process is undertaken and the petitioner is over age by then, he should be granted age relaxation for an appropriate period considering that he has been litigating his claim earlier before the Tribunal, and thereafter before this Court.

8. Petition stands disposed of in the above terms along with pending application.

VIPIN SANGHI, J

A. K. CHAWLA, J

DECEMBER 21, 2018

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