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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 20.02.2019

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W.P.(C) 1738/2019 and C.M. Nos.8084-8085/2019

DELHI SUBORDINATE SERVICES

SELECTION BOARD AND ANR.

..... Petitioners

Through: Mrs. Avnish Ahlawat, St. Counsel,
GNCTD (Services) with Mr. N.K.
Singh, Ms. Aarushi and Ms. Sakshi
Shaipwal, Advs.

versus

SEEMA KAPOOR

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A.K. CHAWLA

VIPIN SANGHI, J. (ORAL)

1. The Delhi Subordinate Services Selection Board (DSSSB) has preferred the present writ petition to assail the order dated 05.09.2018 passed by the Central Administrative Tribunal, Principal Bench, New Delhi, (the Tribunal) in O.A. No. 3213/2017.

2. The Tribunal has allowed the said Original Application preferred by the respondent and held that she was entitled to grant of age relaxation of 5 years while offering her candidature for the post of PGT (English) Female. The petitioner has been directed to consider the candidature of the respondent on that basis within 6 weeks.

3. The respondent was serving as Teacher (Primary) in South Delhi Municipal Corporation (SDMC) since 03.04.2006. The DSSSB invited applications for the post of PGT (English) Female, Post Code No. 133/12 vide advertisement No. 2/2012 in which the respondent offered her candidature. The age limit prescribed for the said post in the advertisement was “*not exceeding 36 years, Age relaxable to SC/ST/OBC/Exsm/PH in accordance with the instructions/orders issued by Govt. of India from time to time.*”

4. The advertisement also contained clause (6) in relation to age relaxation. Insofar it is relevant, it reads as follows:

S.NO.	CATEGORIES	EXTENT OF AGE CONCESSIONS
1.	SC/ST	05 years
2.	OBC	03 years
3.	PH	10 years
4.	PH + SC/ST	15 years
5.	PH + OBC	13 years
6.	Departmental candidate with at least three years	Upto 05 years for Group ‘B’ posts (which are in

	<i>continuous service in Govt. of NCT of Delhi/ its local or autonomous bodies</i>	<i>the same line or allied cadres and where a relationship could be established that the service already rendered in a particular post will be useful for the efficient discharge of the duties of post.)</i>
		<i>Upto 40 years of age (45 years for SC/ST, 43 years for OBC) for Group ‘C’ post (which are in the same line or allied cadres)</i>

(emphasis supplied)

5. The Tribunal has allowed the Original Application by placing reliance on the decision of a Division Bench of this Court in ***Sushil Kumar Rajput v. Director of Education & Ors.***, W.P. (C.) No. 13782/2004, decided on 24.11.2006, wherein this Court had held that the Municipal Corporation of Delhi falls within the ambit of “*other government organization*”, and persons employed with MCD would be entitled to the benefit of age relaxations.

6. Ms. Ahlawat submits that in ***Sushil Kumar*** (supra), this Court was considering the term of the advertisement which provided that age limit is relaxable for Government servants and employees of other Government organizations upto 5 years. This Court held that the Municipal Corporation of Delhi falls within the definition of “*Other Government Organizations*”.

However, the words used in the advertisement in question are materially different. They allude to instructions/ orders issued by Government of India from time to time. She submits that the Government of India instructions are contained in office memorandum dated 27.03.2012 which, inter alia, state “*These instructions (consolidated orders on relaxation in upper age limit allowed to various categories of government servants) are applicable only to Central Government Civilian Employees holding civil posts and are not applicable to personnel working in autonomous/ statutory bodies, Public Sector Undertakings etc.....*”

7. Thus, the submission is that the said Government instructions are not applicable to employees of MCD. She submits that the employees of MCD are not Central Government employees and this has been so held by the Supreme Court in ***Jai Prakash Wadhwa and Ors. v. Governor, Delhi Admn. And Ors.***, 1997 11 SCC 174. This decision was rendered in the context of Rule 22-C of the Fundamental Rules.

8. Having heard and considered the submissions of Ms. Ahlawat, and perused the impugned order and record, we find no merit in this petition. The advertisement in question has been issued by the DSSSB for recruitment of, inter alia, PGT (English) Female in the GNCT of Delhi. Obviously, instructions/ orders issued by the Government of India, from time to time, relate to employees and officers serving under the Government of India. The use of the words “*in accordance with the instructions/ orders issued by the Government of India from time to time*”, is only a way to adopt the instructions issued by the Government of India, from time to time, by

way of incorporation. When reading in the context of the advertisement issued by the DSSSB for posts falling under GNCT of Delhi, the said O.M. would have to be adapted and fitted for GNCTD.

9. Therefore, the submission of Ms. Ahlawat that the office memorandum dated 27.03.2012, in terms, states that it applies only to Central Government Civilian employees, is neither here nor there. The same is rejected.

10. These instructions/ office memorandum provide in Clause 12 that *“Departmental Candidates with three years continuous service in Central Government”* would enjoy *“extent of age concession” “upto 40 years of age (45 years for SC/ST)” “for appointment to Group ‘C’ and erstwhile ‘D’ (now MTS posts) by direct recruitment which are in the same line or allied cadres”*. The post of PGT (English) Female is a Group ‘C’ post.

11. Moreover, as noticed hereinabove, the advertisement in question itself provides for age relaxation, inter alia, in relation to *“Departmental candidates with at least 3 years continous service in GNCTD/ its legal or autonomous bodies”*. It is not the submission of Ms. Ahlawat and it cannot be argued that the Municipal Corporation of Delhi is not a legal or autonomous body of the GNCTD. In respect of such departmental candidates, 5 years of age relaxation for Group B posts is permissible, which the post in question i.e PGT (English) Female is.

12. It is not even been contended that the said post is not in the same line or allied cadre, in which the respondent was serving when she made the

application. She was serving as a Teacher (Primary) in SDMC. Thus, in any event, she was entitled to age relaxation in terms of the advertisement itself.

13. For all the aforesaid reasons, we find no merit in this petition.

14. Dismissed.

VIPIN SANGHI, J.

A.K. CHAWLA, J.

FEBRUARY 20, 2019

N.Khanna

