



IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: February 22, 2022

+ W.P.(C) 613/2020 & CM. No. 4947/2021

GAURI SHARMA Petitioner
Through: Mr. Deeptakirti Verma, Adv.

versus

DIRECTORATE OF EDUCATION GOVERNMENT OF NCT OF
DELHI AND ANR. Respondents

Through: Mr. V. Balaji and Ms. Neha Singh,
Adv. for DOE/R-1
Dr. D.K. Chaubey, Adv. for R-2

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

J U D G M E N T

V. KAMESWAR RAO, J

1. This petition has been filed with the following prayers:

- (i) issue a writ of mandamus or any other similar writ or order quashing and/or setting aside the (illegal) order dated 20.11.2019 issued by the Deputy Director of Education (District North) rejecting the request of the Petitioner for payment of her salary from the date of her appointment (being 22.12.2018);*
- (ii) issue a writ of mandamus or any other similar writ or order directing the Respondents to make payment to the Petitioner her salary as per law from the date of her appointment (being 22.12.2018);*
- (iii) issue a writ of mandamus or any other similar writ or order directing the Respondents to continue to make payment of salary to the Petitioner in future as per law; &*



(iv) pass such other and further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

2. The respondent No. 2, a Minority Aided School, published an advertisement in the newspaper of the employment exchange dated June 2, 2018 to June 8, 2018 inviting applications for one post of Librarian, along with 32 other posts. The petitioner herein applied for the post of Librarian and was called by the Management of the respondent No.2 School for verification of documents vide letter dated November 17, 2018. Subsequently, vide letter dated November 27, 2018, respondent No.2 School directed the petitioner to appear before the Staff Selection Committee for interview on December 7, 2018. The petitioner duly appeared for the interview and on successfully qualifying, was issued an offer of appointment to the post of Librarian by the respondent No.2 School vide letter dated December 20, 2018. The petitioner joined the respondent No. 2 School with effect from December 22, 2018, and has been working as a Librarian in the respondent No. 2 school since then.

3. It is stated by Mr. Deeptakirti Verma, learned counsel for the petitioner that at the time of the advertisement, the petitioner was 36 years of age, as her date of birth is March 12, 1982. During the selection process, the petitioner had claimed age relaxation up to ten years available to women candidates for appointment as teachers. He has placed reliance on an order of the Assistant Director of Education (Admn.) bearing No. DE-4(9)/67/E-IV/651-667 dated January 21, 2011 wherein it is stated as under: -

"The post of librarian in Government School of Directorate of Education, Govt. of NCT of Delhi is hereby



declared as Teaching Post for all purposes with immediate effect and accordingly the librarian shall avail all benefits applicable to teaching category."

4. He would submit that in view of the above order, it is a settled legal position that a Librarian in a Government or Government aided school would enjoy parity with a teacher, in all aspects including terms of employment, working conditions, salary etc. Therefore, there is no illegality in the grant of age relaxation to the petitioner, nor could her appointment be faulted on that ground.

5. It is the case of the petitioner as averred by Mr. Verma that from the very beginning of her service, her salary was not released by the respondent No. 2 School even though the salaries of all other staff members selected/appointed along with the petitioner through the same advertisement were duly paid every month. On April 6, 2019, the petitioner received a memorandum from respondent No. 2, informing her that respondent No. 1 had raised certain objections regarding her appointment on the ground of her being over-age. The petitioner submitted a response dated April 18, 2019 to the said memorandum, setting out the position as stated above.

6. Subsequently, the petitioner sent a representation dated November 18, 2019 to the respondent No. 2 School with copies marked to the respondent No. 1, seeking release of her salary. Shortly thereafter, the petitioner received an order dated November 20, 2019, issued by the Deputy Director of Education (North District) through respondent No. 2 School, holding that the relaxation of ten years in age limit granted to the petitioner while considering her for appointment to the post of Librarian was void, as the post of Librarian is a non-teaching post and such relaxation is applicable only on



appointments to the post of teachers.

7. The petitioner preferred a detailed representation dated November 28, 2019 to respondent No. 1 through respondent No. 2 School, bringing to notice the aforementioned order dated January 21, 2011, along with various Judgments of Supreme Court and this Court, and sought a review of the order dated November 20, 2019. She has neither received any response to the representation nor the salary has been released. It is further stated that the petitioner has been satisfactorily discharging her services for over a year as on the date of filing of this petition.

8. A counter affidavit has been filed by the respondent No. 1, wherein at the outset it is stated that as per Recruitment Rules, the maximum age for the post of Librarian is 30 years and the petitioner being 36 years and three months of age on the date of the advertisement, is not eligible for appointment to the said post. It is stated that the appointment of the petitioner being void *ab-initio*, the question of payment of salary does not arise.

9. Mr. V. Balaji, learned counsel for the respondent No. 1, would state that it was categorically mentioned in the advertisement that the age limit shall be as per the Recruitment Rules framed by the Directorate of Education ('DOE', for short and respondent No.1 herein) of the Government of National Capital Territory of Delhi. He stated that the respondent No. 2 was bound to examine the documents of the petitioner before she was called for interview. As the petitioner was over-age, she should not have been called for verification of documents or interview.

10. He has referred to Points 6 and 7 of the Appointment Letter /



Office Memorandum dated December 20, 2018 which reads as under: -

*“6. The appointment of Ms. Gauri Sharma in this school is subject to the finalization of recruitment formalities of Directorate of Education, Delhi.
7. The other conditions of service will be governed by the relevant rules and orders in force from time to time.”*

He would submit that as per the above terms and conditions, respondent No. 1 has a *bona fide locus standi* to examine the testimonials of the petitioner to ascertain whether the petitioner is eligible for the post of Librarian. Mere issuance of an appointment letter by the respondent No. 2 does not accrue any right in favour of the petitioner for appointment as the same is subject to the finalization of recruitment formalities by the respondent No. 1.

11. That apart, it is submitted that the notification dated November 1, 1980 relied upon by the petitioner, whereby a general relaxation of 10 years was granted to the maximum age limit prescribed in the Rules for recruitment to various posts of teachers in Delhi schools, was withdrawn vide office order bearing No. DE.4/1/101/E-IV/Court Cases/2018/208-216 dated March 6, 2020.

12. It is contended by Mr. Balaji that the order dated January 21, 2011 is applicable only in respect of Librarians in Government schools. The order has not been endorsed in respect of aided schools. Further, the order does not imply that the Recruitment Rules of Trained Graduate Teachers (‘TGT’, for short) will be applicable for the appointment of Librarian, as there is a mandatory requirement of Central Teacher Eligibility Test (‘C-TET’, for short) Certificate conducted by the CBSE for the post of TGTs, whereas no such



certificate is required for the appointment of Librarians in the same pay scale. He has also placed reliance upon Rule 98 (5) of the Recruitment Rules to submit that the respondent No. 2 was liable to dispense with the services of the petitioner as her appointment was contrary to the Recruitment Rules as far as the criteria of maximum age limit is concerned. Rule 98 (5) of the Recruitment Rules is reproduced as under:-

“Where any appointment made by the managing committee of an aided school is not approved by the Director, such appointment may (pending the regular appointment to the post) be continued on an adhoc basis for a period not exceeding three months and the salary and allowances of the person so continued on an adhoc basis shall qualify for the computation of the aid to be given to such school.”

13. A counter affidavit has been filed on behalf of respondent No. 2 School, wherein it is stated that the petitioner was appointed keeping in view the Order/ Notification bearing No. Delhi Admn., Dte of Edn., Recruitment Branch, No.F.1/16/3/R&S 79, dated November 1, 1980 whereby the Administrator has provided general relaxation of ten years for women candidates in the maximum age limits prescribed in the Recruitment Rules for recruitment to various posts of teachers in Delhi Schools and Order of the Assistant Director of Education (Admn.) bearing No. DE-4(9)/67/E-IV/651-667 dated January 21, 2011 wherein it was stated that the post of Librarian is a teaching post for all purposes and accordingly a Librarian shall avail all benefits applicable to the posts in teaching category.

14. Mr. D.K. Chaubey, learned counsel appearing on behalf of the



respondent No. 2 School stated that the School had issued a memorandum to the petitioner on April 6, 2019 in furtherance of the memorandum issued by the office of the Deputy Director of Education, Zone VII, District North Delhi dated April 5, 2019 for clarification regarding the age of the petitioner on the date of appointment. The petitioner submitted her detailed response to the memorandum vide reply dated April 18, 2019. He denied the contention of Mr. Verma that the petitioner is being forced to work without pay, by stating that it is the DOE that is the competent authority to release the salary of the petitioner. Being an aided School, the respondent No. 2 is liable to pay only Grant-in-Aid of 5% of total salary after approval by the respondent No. 1/DOE.

15. It is submitted by Mr. Chaubey that the respondent School, had selected twenty-nine other candidates in various categories, along with the petitioner. Upon selection, personnel files of all thirty candidates were forwarded to the office of the Deputy Director of Education for approval of Grant-in-Aid towards salary and other allowances. However, the office of the Deputy Director of Education approved Grant-in-Aid for all other candidates, except the petitioner. Mr. Chaubey submitted that in the absence of approval of the Grant-in-Aid from the respondent No. 1, the respondent No.2 School could not release the salary of the petitioner.

16. A rejoinder has been filed on behalf of the petitioner to the counter affidavit of respondent No. 1, wherein, apart from reiterating the contentions set forth in the petition, it is stated that the petitioner was well within the permissible age limit for the post of Librarian, taking into consideration the Order dated January 21, 2011.



17. As regards the submission of the respondent No. 1 that the Order dated January 21, 2011 is applicable only in respect of Librarians in Government schools and no benefit thereof could be given to the petitioner as she had applied for the post in an aided school, it is stated that such submission is contrary to the provisions of the Delhi School Education Act, 1973 ('DSE Act', for short) and Delhi School Education Rules, 1973 ('DSE Rules', for short). Rule 104 of the DSE Rules reads as under:

"104. Age Limit - The minimum and maximum of age of the limit for recruitment to a private recognized school , whether aided or not, shall be the limits specified by the Administrator for appointment to corresponding posts in Government schools: Provided that the age limit may be relaxed in the case of a candidate belonging to the Scheduled Castes and Scheduled Tribes or any other special category of persons in accordance with the orders on the subject made by the Central Government from time to time."

Mr. Verma stated that as per the above provision, the maximum age limit for appointment to a post in an aided private school would correspond automatically to the age limit fixed for such a post in a Government school. Once Librarians in Government schools have been equated with Teachers (vide Order dated January 21, 2011) resulting in women candidates for such post in Government schools being eligible for age relaxation of up to ten years (in view of the then prevailing Order dated November 1, 1980), such relaxation in age limit would *ipso facto* apply to women candidates seeking appointment to post of Librarian in private schools (whether aided or not) in view of the above Rule.

18. He further submitted that the same effect (of age relaxation in



appointments to the post of Librarian in Government schools) has been achieved by the respondent No. 1 indirectly by providing age-relaxation in appointments to post of Teachers (vide Order dated November 1, 1980) and thereafter equating the post of Librarian in Government schools with Teachers (vide Order dated January 21, 2011). Inasmuch as respondent No. 1 cannot act in breach of the statutory rules directly or indirectly, the same age-relaxation would automatically become applicable to appointment to the post of Librarian in an aided school. Hence, the petitioner was entitled to avail the benefit of such age relaxation, and respondent No. 2 School was justified in extending the same to the petitioner. To buttress his argument, Mr. Verma has relied upon the Judgments of this Court in the cases of *Asha v. Govt. of NCT of Delhi and Ors.*, WP(C) 1035/2014 decided on August 22, 2014; *Praveen Kumar Pandey v. The Director of Education, Govt. of NCT and Anr.*, WP(C) 9483/2015 decided on January 20, 2017 and *Bal Raj Parashar v. Union Academy Senior Secondary School and Ors.*, LPA 502/2018 decided on April 4, 2019.

19. Contesting the submission of Mr. Balaji that the Order dated January 21, 2011 did not make the Recruitment Rules of TGTs applicable to the appointment of Librarians, as there is a mandatory requirement of C-TET Certificate for the post of TGTs whereas no such certificate is required for the appointment of Librarian in the same pay scale, Mr. Verma would state that the same is irrelevant as a Librarian in both Government and private schools (aided or unaided) is required to have and hold the qualification of graduation followed by diploma/degree in Library Science, which the petitioner has. Even



Librarians in Government schools would be holding the same qualification of graduation followed by diploma/degree in Library Science and not C-TET. In fact, it stands to reason that a person holding C-TET Certificate or qualification would not be applying for appointment to the post of Librarian but would be applying for appointment to the post of TGTs in the concerned subject.

20. Insofar as the stand of the respondent No. 1 that no corresponding amendment has been made in the Recruitment Rules of Librarian subsequent to the Order dated January 21, 2011, it is stated that such omission is the fault of respondent No. 1, and cannot be a ground to deny the petitioner of her rights. Mr. Verma has stated that this argument of the respondent No. 1 has been rejected by this Court in *Asha (supra)*.

21. That apart, it is his contention that the only alleged reason for rejection of appointment of the petitioner stated in the impugned order dated November 20, 2019 was that "*as the post of librarian is a non-teaching post, hence the relaxation in age of 10 years for women candidates is not applicable*" in her case. It is settled law that the reasons contained in an Order cannot be supplemented or added to by way of pleadings/filings in court, in case such Order is assailed before a Court. Reliance in this regard is placed on the Judgment of the Constitution Bench of the Supreme Court in the case of *Mohinder Singh Gill and Anr. v. Chief Election Commissioner, New Delhi and Ors., (1978) 1 SCC 405*.

22. Mr. Verma would also submit, without prejudice to his earlier submissions the impugned Order is also in violative of Rule 98(4) of the DSE Rules which mandates as under:-



“(4) The Director shall be deemed to have approved an appointment made by the managing committee of an aided school if within fifteen days from the date on which the particulars of the appointment are communicated to him under sub-rule (3), he does not intimate to the managing committee his disapproval of the appointment, and the person so appointed shall be entitled for his salary and allowance from the date of his appointment.”

In the present case, the petitioner has been informed by respondent No. 2 School that the details of all the appointees of the selection process held in December 2018 (of which the petitioner was a part) were communicated to respondent No. 1 on January 29, 2019. It is therefore evident that the Director was statutorily required to communicate his disapproval to the appointment of the petitioner (if any) by about mid-February. In this regard, reliance is placed on the Judgment of this Court in the case of ***Surendra Singh v. Manager, Haryana Shakti Sr. Sec. School and Ors., CWP No. 424/2000*** decided on September 18, 2001. He has relied upon the decision in the case of ***Delhi Tamil Education Association v. Directorate of Education, (2008) 153 DLT 251***, wherein, this Court, after referring to earlier precedents on the issue, directed release of salaries and allowances of the concerned appointees whose appointments were disapproved beyond the statutory period of fifteen days while observing that *"...Rule 98(4) contains a salutary provision intended to obviate impasse of persons commencing their employment and later on being told that their appointment was illegal and non est."*

23. A brief written synopsis has also been filed on behalf of the respondent No. 2 school, wherein the plea of the respondent No. 1 that



the post of Librarian is not a teaching post has been vehemently opposed. After the enforcement of the DSE Act and Rules, 1973, the DOE vide order dated August 24, 1978, brought the service conditions of employees of aided schools at par with those working in Government schools. The said order reads as under:-

"In supersession of the earlier instructions issued by the Directorate of Education on the subject. I am directed to say that with the coming into force of Delhi School Education Act and Rules framed thereunder with effect from 31.12.1973, the service condition of employee of Aided Schools have been brought at par with those working in Government Schools."

It is stated that the contention of the respondent No. 1 that the order dated January 21, 2011 is applicable only for Government schools and not for aided schools is not sustainable in view of the above.

24. Further, the plea of the respondent No. 1 that the appointment of the petitioner was illegal as she was over-age on the date of appointment is also opposed by Mr. Chaubey on the ground that the relaxation of ten years in maximum age limit prescribed in the Recruitment Rules for women candidates for recruitment to various posts of teachers under Rule 43 of the DSE Act and Rules, 1973 granted by the Lieutenant Governor/Administrator has been duly implemented by the respondent No. 1 vide notification dated November 1, 1980. The candidature of the petitioner was considered by the respondent No. 2 in terms of the said order dated November 1, 1980.

25. That apart, he stated that the submission made by the Mr.



Balaji that Recruitment Rules have not been amended is also not sustainable, as Rule 43 of DSE Act and Rules, 1973 is only applicable to privately managed aided/unaided schools and not Government schools as clarified by the Division Bench of this Court in the matter of ***Raj Bala and Anr. vs Government of NCT of Delhi and Anr. bearing W.P.(C) No. 7240/2017***, decided on August 23, 2017. It is further stated that advantage of the notification dated November 1, 1980 was taken by Government schools in their recruitment and when this observation came to the notice of the DOE, the said notification was withdrawn vide order dated March 6, 2020. However, the petitioner was appointed in the year 2018 and therefore the withdrawal of the notification of November 1, 1980 is not applicable in her case.

26. It is also submitted that the post of Librarian along with those of music teacher, physical education teacher and yoga teacher are considered TGT (Misc. category) and C-TET Certificate is not a requirement for appointment to these posts. Reliance is also placed on the order dated April 28, 2006 issued by the respondent No. 1 to contend that the post of Librarian comes under TGT (Misc. category).

27. Mr. Chaubey has also submitted that the stand of the respondent No. 1 that the appointment of the petitioner is void *ab-initio* and therefore the respondent No. 2 should dispose of with the services of the petitioner under Rule 98(5) of the DSE Rules, 1973 is not tenable in view of Rule 98(4) of the DSE Rules, 1973 which clearly stipulates that the Director shall be deemed to have approved an appointment made by the managing committee of an aided school, if no intimation to the contrary is provided within fifteen days of the date on which the particulars of the appointment is tendered to him. In



the instant case, the respondent No. 1 sought clarification only after three months of the appointment of the petitioner. He stated that the appointment of the petitioner was made by the respondent No. 2 School in terms of the above notifications/circulars/order passed by the competent authorities and therefore does not suffer from any infirmity.

28. Having heard the learned counsel for the parties, the facts noted are that the respondent No.2 is a Minority Aided School which published an advertisement for various posts including the post of Librarian. The petitioner had applied for the said post and was also selected and given appointment by the respondent No.2 School. Pursuant thereto, the respondent No.2 School had sent the details of all the appointees of the selection process to the DOE on January 29, 2019. It appears that the appointment of the petitioner was not approved by the Director of Education and a communication thereof was sent to the respondent No.2 School.

29. The petition has been filed with a limited prayer that she be paid her salary w.e.f. December 22, 2018, i.e., the day when she had joined the School. There is no dispute that the petitioner is still working in the respondent No.2 School.

30. On a reading of the stand taken by the parties before this Court, the reason for non-payment of the salary to the petitioner is primarily that, the petitioner has been appointed as Librarian beyond the upper age limit prescribed in the Recruitment Rules for appointment to the post of Librarian, which is 30 years. The petitioner's age on the date of appointment was 36 years. The stand of the respondent No.1 / DOE are the following:



- (i) That the maximum age for appointment to the posts of Librarian is 30 years and the petitioner is of 36 years of age.
- (ii) The respondent No.2 School had appointed the petitioner overlooking the said aspect.
- (iii) Mere issuance of appointment letter to the petitioner by the respondent No.2 School would not create any right in favour of the petitioner to claim salary.
- (iv) The notification dated November 1, 1980 on which reliance has been placed by the petitioner holding that the post of Librarian has been considered as a teaching post, has been withdrawn on March 6, 2020. In other words, the post of Librarian is not a teaching post.

31. The reliance placed by the petitioner on the order dated November 21, 2011 wherein the post of Librarian was declared as a teaching post was only confined to appointment of Librarians made in Government schools. The case of the respondent No.2 School is primarily justifying the appointment of the petitioner in view of the notification dated November 1, 1980 wherein age relaxation of ten years was granted to women candidates for appointment to the post of teachers.

32. It is also stated that the salary to the petitioner could not be paid, as the respondent No.2 being a Grant-in-Aid School, the appointment has not been approved by the Director of Education, and as such, Grant-in-Aid was not sanctioned for the petitioner's appointment.

33. Having noted the broad submissions made by the counsel for



the respondent No.1, at the outset I may state that the notification dated November 1, 1980 which reads as under, is clear that age relaxation of ten years shall be granted to women candidates for appointment to various posts of teachers:

“GENERAL AGE RELAXATION OF 10 YEARS FOR WOMAN CANDIDATES FOR RECRUITMENT TO TEACHERS POST

1. In exercise of the powers vested in him under rule 43 of the Delhi School Education Rules, 1973, the Administrator is pleased to prescribe for women candidates a general relaxation for 10 years in the maximum age limits prescribed in the Recruitment Rules for recruitment to various posts of teachers in Delhi Schools.

2. The Managing Committees shall, while considering women candidates for appointment to vacancies in their schools, consider such candidates as per the revised age limit for women candidates.

(Delhi Admn., Dte. Of Edn., Recruitment Branch, No. F.1/16/3/R & S 79, dated 01.11.1980)”

34. A question would arise whether the post of Librarian in a Grant-in-Aid School shall also be treated as such. This issue is no more *res integra* in view of the judgment of this Court in the case of ***Praveen Kumar Pandey (supra)***. The issue arose before the Court whether the petitioner therein is entitled to age relaxation for a period of 4 years, 4 months and 7 days. The respondent in that case was an aided institution and the stand of the DOE was that the said order which reads as under shall be applicable only for the Government schools.

***“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)”

35. The Coordinate Bench by relying upon Section 10 to the DSE Act has held as under:

“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.”

36. It has not been shown to me that this judgment has been taken in appeal and has been overturned. From the above finding, it must be



held that the petitioner is entitled to the benefit of age relaxation as applicable to teachers, for appointment as Librarian in the respondent No.2 School.

37. The aforesaid position of law has been reiterated in a subsequent judgment passed by the Division Bench of this Court in **Bal Raj Parashar (supra)** wherein in paragraph 29 it is stated as under:

“29. In the instant case, with the post of librarian in the Respondent No.1 school, which is an aided school, remained unfilled, what is to really be seen whether at the time of the Appellant being appointed to that post, he suffered from any disqualification as such. The Court is of the view that with the position that a librarian is equivalent to a teaching post having been made clear, the only hurdle in the way of the Appellant being granted the benefit of age relaxation, no longer survives. There should be no difficulty, therefore with the DoE agreeing to relax the age in the case of the Appellant, particularly since he has previous experience as librarian for a period which is greater than the period of relaxation being sought.”

38. It is not the case of the respondents that the petitioner does not fulfill any other eligibility conditions for appointment to the post of Librarian. Insofar as the submission of Mr. Balaji that the Recruitment Rules for the post of Librarian do not stipulate the condition of age relaxation, the same is without merit, more particularly in view of the judgment of the Division Bench of this Court in **Asha (supra)** wherein this Court in paragraphs 10 and 11 has held as under:

“10. It is evident from the above discussion that the petitioner’s contention hinges on the applicability of



the 01.11.1980 circular in the light of the equation of post of Librarian with that of other teachers – made effective by a later notification on 21.01.2011. The respondents did not contest – nor indeed can they – that the equation is matter of fact. Their only contention appears to be that in the absence of an appropriate amendment reflecting this equation, no right accrues to a prospective candidate to demand that they ought to be given age relaxation in line with the 01.11.1980 circular. Significantly, the GNCTD's reply in the application before the Tribunal nowhere states that the circular of 1980 was superseded either in letter or in effect. At best, its argument appears to be that the Recruitment Rules pertaining to Librarian framed in 2003 do not enable such age relaxation.

11. In the opinion of this Court, that argument is fallacious; it does not meet the subsequent development of equation of the two posts made effective from 21.01.2011.

xxx

xxx

xxx”

39. The plea of Mr.Balaji that the notification dated November 1, 1980 has been withdrawn in the year 2020 and as such is not applicable to the petitioner is also without any merit, or at least shall not have any bearing, as the appointment of the petitioner was made in the year 2018, i.e., much before the notification was withdrawn. In other words, the said notification cannot affect the rights which have already accrued in favour of the petitioner.

40. A plea was advanced by Mr.Balaji that as the petitioner did not have qualification of C-TET which is mandatory for the post of TGT, and she being a Librarian, cannot be equated to a teacher. This plea is unmerited for the reason, the C-TET Certificate is a relevant qualification only for a teacher. It is not the case of the petitioner that she is a teacher. Rather, she is only stating that as a Librarian, she



shall be entitled to be equated as a teacher and be granted the benefits as available to teachers. If the petitioner possessed the CTET qualification then for all purposes, she would be a teacher and appointed so, and there would not have been an issue of equating the post on which she is working i.e., Librarian, with that of a teacher.

41. In light of the findings above, the submission of Mr. Verma that the approval of the petitioner's appointment by the respondent No.1/DOE is deemed to have been granted in the absence of any communication to the contrary within 15 days need not be gone into.

42. In view of the above discussion, this Court is of the view that the petitioner is entitled to the reliefs as prayed for. The respondent No.1 shall release the salary of the petitioner w.e.f. December 22, 2018 with interest computed @ 5% per annum. The same shall be complied with within eight weeks from today. The petition is disposed of. No costs.

CM. No. 4947/2021

As I have finally decided the writ petition, this application has become infructuous and is dismissed as such.

V. KAMESWAR RAO, J

FEBRUARY 22, 2022/aky