

13.07.2023
Ct. No.7
S/L Nos.14 & 15
KS

W.P.A. 789 of 2021
Maniklal Jana & Ors.
Vs.
The State of West Bengal & Ors.

With
W.P.A. 1746 of 2021
Deepak Shaw
-Vs.-
The State of West Bengal & Ors.

Mr. Shuvro Prakash Lahiri
Mr. Rajesh Naskar
.....For the Petitioners

Mr. Subir Sanyal
Mr. Ratul Biswas
Mr. Kaushik Chowdhury
.....For the Board

1. The challenge in these writ petitions is with regard to the age limit fixed in the Notification for recruitment of primary teachers issued on December 23, 2020. The petitioners have prayed for issuance of a writ of mandamus to quash, set aside and/or suitably modify Clause 3(a) of the said Notification.
2. The petitioners in both the writ petitions are TET –2014 qualified candidates. Therefore, the petitioners claimed

themselves to be eligible to participate in the recruitment process initiated vide Notification dated 23rd December, 2020. The petitioners claim that the recruitment notification allowed TET –2014 passed candidates to participate in the recruitment process, but the application of the petitioners were rejected on the ground that their dates of birth were not within the valid range.

3. Mr. Lahiri, learned advocate representing the petitioners submits that the Board issued a Notification initially on November, 23, 2020 inviting online applications for the purpose of recruitment. He submits that the said Notification implies that the TET –2014 passed candidates have to be allowed to participate in the recruitment process to be initiated immediately thereafter.
4. Mr. Lahiri, learned advocate appearing for the petitioners further submits that the authorities while permitting the TET –2014 qualifying candidates to participate in the recruitment process ought to have allowed all candidates to participate in the recruitment process in view of the Notification dated 23rd November, 2020.

5. Mr. Sanyal, learned advocate assisted by Mr. Biswas, learned advocate appears for the West Bengal Board of Primary Education (for short, “the Board”) and submits that the teacher eligibility certificate only enables a candidate to participate in the recruitment process for the purpose of appointment of Assistant Teachers in primary schools. He submits that the West Bengal Primary School Teachers Recruitment Rules, 2016 (hereinafter referred to as “the Rules”) specifically provides that a person, who has completed the age of 40 years as on the 1st day of January of the year of advertisement are ineligible to participate in the said recruitment process.
6. He further submits that admittedly the petitioners have crossed the upper age limit allowed in the Recruitment Notification and, therefore, the petitioners cannot be said to be eligible for participating in the recruitment process.
7. Heard the learned advocates for the parties and perused the materials placed on record.
8. The Board issued a Notification dated 23rd November, 2020 for the purpose of further process of recruitment. It appears therefrom that online applications were invited from the TET –2014 qualified trained candidates

for verification/scrutiny of their testimonials for ascertainment of their training qualification in accordance with the Notification dated August 23, 2010, as amended vide Notification dated July 29, 2011 and June 28, 2018 for the purpose of further process of recruitment. The expression “as on date” used in the Notification dated November 23, 2020 implies that all TET –2014 qualified trained candidates as on the date of such Notification were allowed to apply online for the purpose of verification/scrutiny of their testimonials for ascertainment of training qualification”.

9. Rule 6(a) of the 2016 Rule states that no person shall be appointed by the Council as a teacher unless he is a citizen of India and has completed the age of 18 years as on 1st day of January of the year of advertisement and has not completed the age of 40 years on the 1st day of January of the year of advertisement as specified in sub-rule (3). It is not in dispute that all the writ petitioners have crossed the upper age limit as per Rule 6(1) of the 2016 Rules.
10. The recruitment Notification dated December 23, 2020 under Clause 3(a) also provides that the upper age limit is 40 years as on the 1st day of January, 2020 since the Notification was issued in the year 2020.

11. Since the Rules for recruitment specifically provides the upper age limit, this Court is of the considered view that the authorities cannot be faulted for fixing the upper age limit of 40 years as on 1st January, 2020 in the Notification dated December 23, 2020.
12. It is well-settled that the Courts cannot condone the age bar and, therefore, this Court is not inclined to allow the prayer of the writ petitioners to relax the upper age limit.
13. For the reasons, as aforesaid, the writ petitions stand dismissed.
14. There shall be, however, no order as to costs.
15. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(Hiranmay Bhattacharyya, J.)