



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

% Date of decision: September 13, 2023

+ W.P.(C) 9162/2021 & CM Appls. 28544/2021, 37683/2022

(26) KOMAL

..... Petitioner

Through: Mr. Sudarshan Rajan and Mr. Hitain Bajaj, Advs.

versus

DELHI SUBORDINATE SERVICES
SELECTION BOARD & ORS.

..... Respondents

Through: Mrs. Avnish Ahlawat, Standing Counsel, GNCTD (DSSSB) with Mrs. Taniya Ahlawat, Mr. Nitesh Kumar Singh, Ms. Laavanya Kaushik, Ms. Aliza Alam and Mr. Mohnish Sehrawat, Advs.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

1. Though the challenge in this petition is to an order dated June 21, 2021 in O.A. 1114/2021 titled as *Mrs. Komal v. Delhi Subordinate Service Selection Board, (DSSSB) & Ors.*, Mr. Sudarshan Rajan, learned counsel for the petitioner, states that the petitioner shall not contest the judgment rendered by the Tribunal in respect of relaxation of upper age limit by ten years as the said issue stands covered by judgment of this Court in the case of *Sachin Gupta & Ors. v. Delhi Subordinate Services Selection Board (DSSSB) Through its Chairman & Ors., 152 (2008) DLT 378 (DB)* but as the other prayers sought by the petitioner before the Tribunal, in respect of



relaxation, to the extent of two years were not considered by the Tribunal, the matter be remanded back to the Tribunal. In support of his submission, he has relied upon the DoP&T notification dated December 21, 1998.

2. Though, Mr. Nitesh Singh, learned counsel appearing for the respondent, contest the applicability of the said OM for appointment of Assistant Teachers under the Government of NCT of Delhi, we are of the view, that since specific prayers have been made in the O.A. in that respect, which we reproduce as under, the matter is required to be remanded back to the Tribunal.

*“(2) Set aside the impugned Advertisement no.2/21 dated 12.05.2021 issued by the respondent no.1 in as much as it provides for age limit not exceeding 30 years for Assistant Teacher (Primary) under code 42/21 & 47/21 in as much as it is violative to Rule no.3 & 4 contained in **Notification no.15012/6/98-Estt. (D) of Govt. of India, Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training) New Delhi dated 21.12.1998, in as much as the upper age prescribe for the post as 30 years needed to be increased to 32 years as per the said Notification.***

Or/and

*(3) direct the respondents no.1 to issue corrigendum in the present impugned Advertisement by increasing upper age limit from 30 years mentioned in the advertisement to 32 years (with five years of SC relaxation to SC & ST) for the post of Assistant Teacher (Primary) with code no.42/21 and 47/21 as per Rule no.3 of **Notification no.15012/6/98-Estt. (D) of Govt. of India, Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training) New Delhi dated 21.12.1998.***

Or/And

(4) Direct the respondent no.2,3 & 4 to amend the existing recruitment rules relating to the post of Assistant Teacher (Primary) under code no.42/21 & 47/21 by incorporating the Rule 3 of the DOP & T Notification dated 21.12.1998 as



referred to above and get the fresh advertisement for recruitment to the said posts again through the respondent no.1 on time bound and priority basis.”

3. This we say so as, on perusal of the impugned order, the said aspect has not been dealt with by the Tribunal. Accordingly, we revive the O.A. on the board of the Tribunal to consider prayers (2), (3) and (4) of the O.A. and decide the same in accordance with law.
4. Liberty is granted to the respondents to file an additional affidavit in respect of the aforesaid prayers made in the O.A. before the Tribunal.
5. For the hearing purpose, we list the O.A. 1114/2021 on October 09, 2023. It is made clear, all the pleas of parties in respect of the aforesaid prayers are left open to be canvassed before the Tribunal.
6. Though, Mr. Rajan has made a submission that a direction to be given to the Tribunal to dispose of the O.A. at an early date, appropriate shall be for Mr. Rajan to make such a request to the Tribunal.
7. The petition along with pending applications is disposed of.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

SEPTEMBER 13, 2023/ds