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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 5205/2024

GOVT OF NCT OF DELHI & ORS.

..... Petitioner

Through: Mr. Yeeshu Jain, ASC alongwith Ms.
Jyoti Tyagi, Ms. Manisha, Mr. Hitanshu Mishra,
Mr. Vinit Roy, Advs.

versus

RAJEEV YADAV & ORS.

..... Respondent

Through: R-13 in person.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

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09.04.2024

CM APPL. 21303/2024 -Ex.

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

W.P.(C) 5205/2024 & CM APPL. 21302/2024 -Stay.

3. The present petition under Articles 226 and 227 of the Constitution of India seeks to assail the order dated 25.04.2023 passed by the learned Central Administrative Tribunal (the Tribunal) in O.A. No. 287/2018. Vide the impugned order, the learned Tribunal has partly allowed the original application filed by the respondents by issuing the following directions:

6.1 In the result, for the foregoing reasons, we allow this OA with a direction to the respondents to place the file of aforesaid five selected candidates on the basis of their merit position in the selection process already concluded before the Hon'ble Lt. Governor, Delhi, who, in his



wisdom, may pass appropriate order(s) for granting age relaxation under Rule 5, and thereafter, issue necessary order(s) for offer of appointment to the post of EVGC in terms of advertisement to which these applicants had applied, subject to fulfilling other eligibility conditions, within six weeks from date of receipt of certified copy of this Order. They shall, however, be entitled to all benefits from the date of joining the post only.

6.2 To be fair to those candidates, who may not have applied in response to the advertisement in question, on account of being age barred, we direct that the respondents shall undertake further process of recruitment to fill up the vacant posts of EVGC without any delay, and to incorporate the clause of age relaxation to all candidates applying for the said posts to the extent required as one time relaxation. Since large number of posts are yet to be filled and lying vacant, the respondents will also initiate the process for fresh recruitment to the post of EVGC, as directed herein-above, within a period of twelve weeks, if not advertised for the year 2022-2023.

4. Before dealing with the rival submissions of the parties, we may note that the present petition has been filed after almost one year from the date of passing of the impugned order. Taking into account that there is no period of limitation prescribed for assailing such orders, even though we are entertaining the petition and examining the same on merits, we are constrained to observe that such a practice needs to be deprecated. In matters, such as the one present before us, where time bound directions are issued by the learned Tribunal, the concerned Authorities cannot wait for such a long period to approach this Court.
5. Learned counsel for the petitioner submits that the impugned order is liable to be set aside as the learned Tribunal has exceeded its



jurisdiction by virtually directing the Lieutenant Governor to exercise his discretion in a particular manner while considering the cases of the respondents for age relaxation. The learned Tribunal, he contends, has also failed to appreciate that no candidate has a vested right to claim age relaxation and it is for the employer to decide whether age relaxation is warranted for a particular category of persons or not.

6. Even though we agree with the learned counsel for the petitioner that no candidate has a vested right to claim age relaxation, we are of the considered view that once the learned Tribunal found that a large number of vacancies in the post of Educational and Vocational Guidance Counsellor (EVGC) had remained unfilled for the last many years, it was justified in directing the Lieutenant Governor to consider the cases of the respondents for age relaxation.
7. Even though learned counsel for the petitioner contends that the direction of the learned Tribunal amounts to directing the Lieutenant Governor to grant age relaxation to the respondents, we find no merit in this plea. Having perused the impugned order, we are of the view that the directions issued by the learned Tribunal do not amount to issuance of any positive directions to grant age relaxation to the respondents but merely direct him to consider their cases for grant of age relaxation.
8. We, therefore, find absolutely no reason to interfere with the impugned order. The writ petition is, accordingly, dismissed by once again clarifying that, in terms of the impugned order, it will be open for the Lieutenant Governor to decide whether to grant age relaxation



to the respondents or not. However, we expect that while taking this decision, the Lieutenant Governor, will be guided by the observations made by the learned Tribunal.

9. The writ petition along with accompanying application is dismissed in the aforesaid terms.

REKHA PALLI, J

GIRISH KATHPALIA, J

APRIL 9, 2024
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