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

+ **W.P.(C) 7307/2018**

REENA DEVI KUMARI

.....Petitioner

Through: Mr. Arati Mahajan Shedha, Ms.
Jyotsna Shandilya & Ms. Shilpa
Chaurasia, Advocates

versus

GOVERNMENT OF NCT OF DELHI & ORS

.....Respondents

Through: Mrs. Avnish Ahlawat, SC, GNCTD
with Mr. N.K. Singh, Ms. Aliza Alam
& Mr. Mohnish Sehrawat, Advocates
for R-1 & 2.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

19.01.2026

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1. This petition has a long and chequered history commencing in the year 2006. The Petitioner states that she was registered with the Employment Exchange in December 1996. On 17th May, 2005, she received a communication from the Employment Exchange informing her that her name had been forwarded to Rashtriya Virjan and Andh Kanya Senior Secondary School¹ for consideration against a vacancy for the post of Aaya/Helper, and that she would be informed of the date and venue of the interview.

2. The Petitioner contacted the Respondent School; however, as no

¹ "Respondent School"



information was furnished to her, she approached this Court by filing W.P.(C) No. 6667/2006. The said writ petition was disposed of by this Court on 2nd February, 2009, with the following directions:

"... There is no dispute that the petitioner was eligible for consideration as on the date of her filing application as forwarded by the employment exchange. I feel that interest of justice would be met if against any future vacancy the application of the petitioner is considered based on the same qualification as was laid down by respondent nos. 3 to 5 when the names were called through Employment Exchange as well as through the Employment News. With these directions the writ petition is disposed of."

3. Pursuant thereto, on 24th March, 2009, the Petitioner submitted a fresh representation to the Respondent School seeking consideration for appointment to the post of Aaya/Helper. She also filed several applications under the Right to Information Act, 2005, which, according to her, disclosed the existence of vacancies against sanctioned posts. In these circumstances, the Petitioner once again approached this Court by filing W.P.(C) No. 1395/2014, alleging non-compliance with the directions issued in W.P.(C) No. 6667/2006 despite the availability of vacancies.

4. The said writ petition was allowed by this Court *vide* order dated 14th July, 2015, wherein it was *inter alia* held as under:

"10. Having heard the learned counsel for the parties, there is no dispute to the fact that this Court in Writ Petition No.6667/2006 had directed the respondents to consider the case of the petitioner for the next available vacancy. Assuming, that on the date of the order dated February 02, 2009 there was no vacancy of the post of Aaya/Helper available in respondent No.5 school but in terms of letter dated June 25, 2010, 10 posts were sanctioned in the school. Even if the case of the learned counsel for the respondent Nos.3 to 5 is that two vacancies are under the stay order of this Court, still there were three vacancies available, at least post June 25, 2010. The case of the petitioner could have been considered against those vacancies. Admittedly the same has not been done, which caused prejudice to the petitioner inasmuch as on



March 01, 2013 the petitioner became overaged. Surely the intent and spirit of the order passed by this Court was for consideration of the petitioner against the next available vacancy of Aaya/Helper! The non-consideration is because of the fault of respondent No.5 school. The plea that the petitioner is over-aged is not available to respondent No.5 school, more so in the peculiar facts of this case when there is already a direction of this Court in the earlier writ petition to consider the case of the petitioner for the post of Aaya/helper, when she was within the age limit.

11. This Court is conscious of the position of law that if a person is overaged, he cannot be considered for appointment contrary to the rules. But the respondent Nos. 3 to 5 cannot take recourse to that position of law in the facts of this case when there exists a direction of the Court to consider her case in the next available vacancy,

12. In fact I note that she continued to be within the age limit for next 4 years and the petitioner has been representing to the respondent Nos.3 to 5 for considering her case to the post of Aaya/helper. Unfortunately no response was forthcoming. It is a fit case where the relief sought for by the petitioner in writ petition need to be granted to the extent that the respondent No.5, through its Management Committee shall consider the case of the petitioner for the post of Aaya/Helper within eight weeks from today. Based on the recommendation of the Management Committee, further action would be taken in accordance with the rules. If the case is put up for the approval of the Director of Education, the Director would not reject the case of the petitioner on the ground of overage. The whole process shall be completed within ten weeks from today.

The writ petition is disposed of."

5. Aggrieved thereby, Respondents No. 3 to 5 preferred LPA No. 587/2015, which came to be dismissed by the Division Bench of this Court vide order dated 2nd September, 2015, in the following terms:

"1. Reena Devi Kumari filed an earlier writ petition being W.P.(C) No.6667/2006 inter alia seeking fresh interview for filling up the vacancy of Aaya/Helper with the appellants management which was disposed of by the learned Single Judge of this Court on February 02, 2009 noting that she was eligible for consideration on the date of filing of the application forwarded by the employment exchange and the interest of justice would be met if against any future vacancy, the application of Reena Devi was considered based on the same qualification as laid down by the appellants when the names were



called through employment exchange as well as through employment news.

2. Despite directions of the learned Single Judge dated February 02, 2009 in W.P.(C) No.6667/2006 the case of Reena Devi was not considered for appointment to the post of Aaya/Helper. In response to a query under the RTI it was revealed that after February 02, 2009 one vacancy had arisen in the school. Faced with this situation Reena Devi filed another writ petition being W.P.(C) No. 1395/2014 inter alia seeking directions to the appellants to consider her for filling up the post of Aaya/Helper/Aaya-cum- Helper, granting age relaxation and to quash selection, if any, already made after February 02, 2009 having been done without considering her case.

3. To the writ petition a reply affidavit was filed by the appellants stating that Reena Devi was aged about 37, years and in view of the age limit provided under Rule 104 of the Delhi School Education Rules (in short 'the Rules') Reena Devi was beyond the age prescribed and thus could not be considered. The government of NCT of Delhi filed an affidavit stating that there are 10 sanctioned posts of Aaya-cum-Helper with the appellants of which 05 posts were filled upto January 17, 2005 whereas 05 posts are lying vacant and after 2005 no appointment had been made to the post of Aaya/Helper/Aaya-cum-Helper.

4. The only ground for non-consideration of Reena Devi by the appellants being her having reached the age beyond 35 years,, the learned Single Judge held that even assuming that on the date of the order dated February 02, 2009 there was no vacancy of the post of Aaya/Helper available with the appellants management but vide letter dated June 25, 2010 10 posts were sanctioned and even if 02 vacancies were under the stay order of this Court 03 vacancies were available atleast post June 25, 2010 and thus Reena Devi ought to have been considered. Having not considered Reena Devi at the right time the, appellants could not now take the plea of her being over age and in this view of the matter the learned Single Judge directed the appellants to consider the case of Reena Devi for the post of Aaya/Helper within eight weeks from the order dated July 14, 2015. The learned Single Judge also noted that based on the recommendations of the Management Committee further action would be taken in accordance with rules and if the case has to be approved by the Director (Education), the Director would not reject the same on the ground that Reena Devi was over age. The whole process was directed to be completed within ten weeks. –

5. Learned counsel for the appellants has not been able to demonstrate any illegality in the impugned order and the only ground urged is that Reena Devi was not a fit candidate in view of her



conduct. It is the case of the appellants that Reena Devi is arrogant and even before her appointment she states that she will not do any night duty or duty along with blind girls which is a special requirement if they are hospitalised.

6. Setting aside the impugned order on the basis of the averments made by the appellants would entail the situation where any employer can get away by saying that even before employment the conduct of the person to be employed is such that he warrants no consideration. This cannot be aground for non-consideration of the candidamre of Reena Devi. Needless to state that if on appointment Reena Devi misconducts it would be within the domain of the management to take action in accordance with law we dismiss the appeal.

7. Faced with this situation learned counsel for the appellants states that the time frame as prescribed by the learned Single Judge vide the impugned order is coming to an end shortly and thus the same be extended. The tune schedule as directed by the learned Single Judge will be adhered by the appellants from today onwards.

CM No. 17814/2015 (Stay)

Application is dismissed as infructuous.”

6. The matter was thereafter carried to the Supreme Court by way of SLP (C) No. 36083/2015, which was dismissed *vide* order dated 29th January 2016, thereby giving finality to the directions issued by this Court.

7. Subsequently, Respondents No. 3 to 5 sought extension of time to comply with the aforesaid directions. An advertisement dated 29th May, 2016 was thereafter issued inviting applications for the post of Aaya/Helper. In pursuance thereof, the Petitioner appeared for the interview held on 18th July, 2016 and produced her certificates, including those relating to experience.

8. The Petitioner later came to know that Respondent No. 6, Smt. Mamta Rajput, had been appointed to the post in question. Alleging arbitrariness, *mala fides*, and manipulation in the selection process, the Petitioner filed the present writ petition under Article 226 of the Constitution of India *inter alia*



seeking the following reliefs:

“A. Direct the respondents to produce the entire original records for the selection process for the post of aaya cum helper in Rashtriya Virjan and Andh Kanya Sr. Sec. School advertised on 29.05.2016 in Hindustan Times New Delhi for which the interview was held on 18.7.17. (including the original marking sheet and minutes of the meeting).

B. Quash / set aside the minutes of the staff selection committee dated nil for the post of Aaya-Cum-Helper, held on 18.07.2016 in the above mentioned school.

C. Quash/ set aside the order of appointment of Mamta Rajput (Respondent no.6 herein) as Aaya-Cum- Helper against the said vacancy for which interview was held on 18.07.2016. Copy of the appointment letter of Respondent No. 6 is not available with the applicant being with the respondents.

D. Direct the respondents to adhere to the actual result as per the marking sheet (without cutting/ interpolation/ overwriting and after giving due preference/ marks for the First aid certificate produced by her) and in pursuance of the same, (and if required giving due preference to the petitioner for consideration over and above any other candidate for the post of Aaya-Cum-Helper in view of the directions of the Hon'ble High Court of Delhi in W.P.(C) No. 1395/2014 vide its order / judgment dated 14.07.2015 and in LPA No. 587/2015 vide its order /judgment dated 02.09.2015 as up held by the Hon'ble Supreme Court of India vide its order / judgment dated 29.01.2016 in SLP (C) No. 36083/2015) appoint the applicant to the post of the Aaya-Cum-Helper (being the candidate with the highest marks) with effect from 18.07.2016 with all consequential benefits and full back wages/ salary.

E. Quash/Issue directions to the Respondent No. 2 to withdraw the Ex-post facto approval granted by Respondent No. 2 vide U.O. No.2955/DE dated 12.04.2017 as conveyed vide letter No. F. No. DDE /WB/ZONE-18/2017/1655 dated 09.06.2017 for the appointment of Respondent No. 6, Smt. Mamta Rajput, as Aya- cum-helper in the Respondent School selected through DPC held on 18.07.2016.

F. Direct the Respondent No. 2 Directorate Of Education to make an inquiry / constitute a committee to find out as to who was responsible for the interpolation in the marking sheet for the post of Aya cum Helper in the respondent school, "the interview for vacancy against which was held on 18.07.2016 and to take appropriate action against the person/persons responsible.

G. Pass any other order(s) that this Hon'ble Court may deem fit and



appropriate in the facts and circumstances of the instant case.

H. Grant cost of this petition in favour of the petitioner and against the respondents.”

9. Respondents No. 3 to 6 have opposed the petition and have filed their counter-affidavit. Along with the counter-affidavit, order dated 7th June 2018, passed by the Deputy Director of Education, District West-B, has been attached, wherein it has been averred as under:

“5. Whereas, the school had notified the vacancy in Daily News paper and had subsequently made appointment of one Mrs. Mamta Rajput on the post of Ayah. The Manager of the School had made a complaint dated 24.07.2017 inter-alis alleging malpractices/irregularities in the appointment of Ms. Mamta Rajput. The District Authorities had constituted a two members committee which vide its report has found the allegations established/proved as follows:-

a). The Minutes of SSC is signed singly by Ms. Rama Rallan as chairman whereas the provisions of rule 96 (3) (d) of DSEAR 1973 clearly provides that the SSC for appointment of class IV will be comprised of chairman and HOS but in the present case the HOS was not even been called during the interview process.

b) The qualification of Ms. Mamta Rajput is mentioned in one place 12th Class and at another place 10th Class.

c) No experience certificate is found on record yet marks for experience have been awarded in favour of the said Ms. Mamta Rajput.

d) In one of the marking statement, Mrs. Mamta Rajput has been awarded 08 Marks in interview but in another statement she has been awarded 18 Marks. It appears that the official record has been falsified or tampered with.

e) There are so many interpolations in the list of interview/markings statement.

f) As per provisions of Rule 98 of Delhi School Education Rules 1973, it is the Managing Committee, which happens to be the Appointing Authority in respect of employees of Aided School but the appointment of Ms. Mamta Rajput has not been approved by the Managing Committee/Appointing Authority, thus the said appointment is no appointment in the eyes of law

6. NOW, THEREFORE, having regard to the facts and circumstances of the case and in the light of explicit violation of statutory provisions of Delhi School Education Act & Rules 1973, The said appointment of Ms. Rajput is illegal and is thus cancelled for all intent and purport. It is made clear that



no Grant-in-Aid against the said appointment shall be released by the Directorate of Education.

This issues with the prior approval of Competent Authority”

10. In view of the aforesaid cancellation, the reliefs sought by the Petitioner relating to the selection and quashing of the appointment of Respondent No. 6 has been rendered infructuous. Consequently, the substantive grievances raised in the present petition stand redressed.

11. As regards the prayer for inquiry into the alleged malpractices, it is left open to the Directorate of Education to undertake any further inquiry, if deemed necessary, in accordance with law.

12. It is clarified that the rights which have accrued in favour of the Petitioner pursuant to the earlier orders passed by this Court, as affirmed by the Division Bench and the Supreme Court, are neither adjudicated upon nor diluted by the present order and shall remain intact.

13. With the aforesaid observations and directions, the present writ petition is disposed of along with any pending application(s).

SANJEEV NARULA, J

JANUARY 19, 2026/hc