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Central Administrative Tribunal, Principal Bench

Original Application No.2430 of 2002

New Delhi, this the 19th day of September, 2002

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. M.P. Singh, Member(A)

Smt. Mithilesh Swami
W/o Dr. J.P. Swami
R/o C-251, Minto Road Complex,
New Delhi-2

.... Applicant

(By Advocate: Shri B.B. Raval)

Versus

1. Union Public Service Commission
Through its Secretary,
Dholpur House,
Shahjahan Road,
New Delhi.

2. Govt. of NCT of Delhi
Through Secretary Department of Education
Delhi.

.... Respondents

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The applicant seeks that she should be allowed to take her interview for the post of Education Officer/Assistant Director of Education with respect to advertisement no.20 that has been published pertaining to the said posts.

2. The applicant, admittedly, is above the age of 45 years at the relevant date. Learned counsel for the applicant urged that in terms of the advertisement, she is entitled to relaxation of age by five years being a Government servant and by another five years being a meritorious sports person. It is urged that keeping in view that the applicant is a Govt. servant and a meritorious ex-sportsman, she is entitled to take part in the interview.

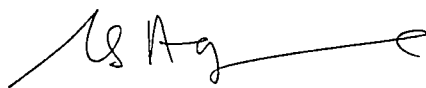


3. Our attention has been drawn to the advertisement published in the employment news for the purpose of relaxation in upper age limit upto a maximum of five years. There are certain relaxations stipulated with respect to the Govt. servants and meritorious sports persons which reads as under:

"5(c) Age relaxation for Govt. Servants: The upper age limit is relaxable upto 5 years to Govt. Servants (10 years for persons belonging to Scheduled Castes/Tribes) in accordance with the instructions or orders issued by Central Government. A candidate claiming to belong to the category of Central/State Government Servants and thus seeking age relaxation under this para should produce a Certificate from his/her Employer on the office letterhead to the effect that he/she is a Govt. Servant as on closing date of Advertisement for the post of ... No candidate will be accorded age relaxation under this para, unless he/she produce the requisite Certificate alongwith his/her application for recruitment to a post.

(d) AGE RELAXATION FOR MERITORIOUS SPORTS PERSONS : The relaxation in upper age limit upto a maximum of 5 years (10 years for persons belonging to SC/ST Communities) may be allowed to meritorious sportswomen/sportsmen in the field of Games/Sports recognised by the Government for such purpose provided they satisfy all other conditions prescribed by Government from time to time. The persons claiming age relaxation under this sub-para should produce a certificate issued by the competent authority in the proforma prescribed which will be supplied to candidates on demand by the Commission. There is no upper age limit in respect of Indian employees of the Government of Burma discharged owing to Constitutional changes in that country. For others, age limit will be strictly adhered to save in exceptional circumstances, and in no case be relaxed beyond a limit of three years.


(e) Age relaxation for Widows, divorced Women and Women judicially separated from their husband."

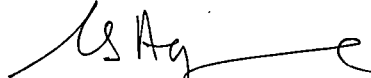


Learned counsel for the applicant relied upon the above said age relaxation to contend that applicant is only 50 years and 6 months of age and, therefore, is entitled to the said relaxation.

4. After careful consideration of the submissions made by the learned counsel, we find ourselves unable to agree with the same. We do not dispute the proposition that the advertisement that appears has the force of law. It has to be harmonious in reading so that it does not give unjust and improbable results. What is the position herein? The relaxation claim cannot be one after the other. In the age relaxation for sportsmen, the advertisement refers to "the age relaxation in upper age limit upto a maximum of 5 years." The expression upper limit will draw its strength and colour from the maximum age i.e. from 45 years stipulated in the advertisement. In no event, therefore, a person who is above 50 years of age (after relaxation if any) should be taken to be a person to be eligible to take part in the interview. Same analogy would apply in the case of Government servant.

5. Consequently we find that the application is devoid of merit. It must fail and is dismissed.


(M.P. Singh)
Member(A)


(V.S. Aggarwal)
Chairman

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