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CAT/7/1

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1800/92
T.A. No.

199

DATE OF DECISION

8-3-97

Sh. V. d. Prakash Sharma

Petitioner

Shri M. M. Sudan

Advocate for the Petitioner(s)

Versus

Delhi Admin. through Chief Secy.
and others

Respondent

None for the respondent

Advocate for the Respondent(s):

CORAM

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble Shri K. Muthukumar, Member (A)

1. To be referred to the Reporter or not? *Yes*

2. Whether it needs to be circulated to other Benches of the Tribunal?

Smt. Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

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OA.No.1880 of 1992

Dated New Delhi, this the 18th day of August, 1997

HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER (J)
HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)

Ved Prakash Sharma
S/o Shri Radheyshyam Sharma
R/o P-58 Bihari Colony
Shahdara
DELHI. ... Applicant

By Advocate: Shri M. M. Sudan

versus

1. Delhi Administration
through Chief Secretary
5 Shamnath Marg
DELHI-110054.
2. Director of Education
Delhi Administration
Old Secretariat
DELHI-110054. ... Respondents

None for respondents.

O R D E R

Smt. Lakshmi Swaminathan, M(J)

The applicant is working as an Assistant Teacher (Sanskrit) in Arya Gurukul Sanskrit Maha Vidhyalaya, Tateswar, Jonti, Delhi which is a school recognised by the Directorate of Education, Delhi Administration. He is aggrieved that even though he had qualified in the written test for the post of Trained Graduate Teacher (TGT) for which he had appeared pursuant to the advertisement issued by the respondents in July 1990, he has not been appointed to that post. In the Advertisement

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it was provided that the applicant should have attained the age of 18 years and should not be more than 30 years in case of TGT. This age was relaxable by five years for the government servant. Admittedly the applicant was over 30 years of age and his grievance is that since he was working in an aided and recognised school which is under the control of Delhi Administration, he should have been given the age relaxation.

2. Shri M. M. Sudan, learned counsel has referred to the provisions of the Delhi Schools Education Act, 1973 and submits that the Delhi Administration gives upto 95% aid to recognised aided schools after satisfying itself that it fulfils the very strict conditions laid down in the Act. He has also submitted that a person working in an aided school is absolutely on par with a teacher in a government school as his eligibility for recruitment, pay and other conditions are the same. Therefore, he submits that the applicant ought to be treated as a government servant for the purpose of relaxation of age. He also contends that as regards Part-Time Teachers working in the Adult Evening Schools, they are granted age relaxation and it was, therefore, discriminatory on the part of the respondents not to grant the age relaxation

Y/

in the case of the applicant. He has, therefore, submitted that the applicant should be granted age relaxation and appointed to the post of TGT (Hindi) with all consequential benefits, as he has qualified in the written test.

3. The respondents in their reply have stated that all candidates have been called for the written test on provisional basis, subject to verification of their certificates/testimonials and other records. They have admitted that the applicant had the educational qualifications and passed the written test as per the Advertisement, but he was overaged on the date of submission of his application i.e., 15.7.90. On that date, his date of birth being 25.5.58, he was already 32 years. They have also submitted that only teachers working in Delhi Administration schools are government servants under the Rules and the applicant was, therefore, not entitled for any age relaxation. They have also denied that their action is discriminatory as they have acted according to the Delhi Education Rules.

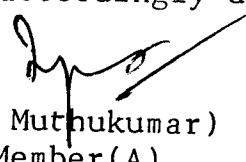
4. We have carefully considered the records and arguments of the learned counsel for the applicant. It is an admitted fact that the applicant is

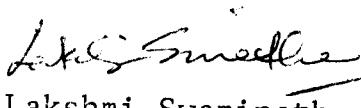
working as an Assistant Teacher (Sanskrit) in an aided/recognised school and the main question is whether that will entitle him to the benefit of age relaxation as a 'government servant', under the Delhi Schools Education Act and Rules, 1973. He was allowed to appear in the written test for selection to the post of TGT on provisional basis subject to verification of his records/eligibility. We are unable to agree with the submissions made by Shri M. M. Sudan, ^{Ad. Council 1973} that since teachers in recognised private aided school are on par with government school teachers as regards their pay, recruitment rules and other conditions they should be treated as government servants. They are employees of the Management of the concerned school or institution who appoint them and they cannot be considered as government servants under the provisions of the Delhi Education Rules. Since the applicant is not a government servant as prescribed in the Delhi Schools Education Act and Rules, he is not entitled for age relaxation. In the facts and circumstances we do not also find that the respondents have acted in any discriminatory or illegal manner which warrants interference in the matter.

Yours

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5. In the result, the application fails and is accordingly dismissed. No order as to costs.


(K. Muthukumar)
Member(A)


(Smt. Lakshmi Swaminathan)
Member(J)

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