

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. NO. 2082/93

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New Delhi this 7th Day of February 1994

HON'BLE SHRI J.P. SHARMA, MEMBER (J)
HON'BLE SHRI B.K. SINGH, MEMBER (A)

Shri Raghuvir Singh,
Son of Shri Banarsi Dass,
Resident of House No. 201/56B,
Krishna Gali No. 5,
East Maujpur,
Delhi-110 053

... Applicant

(By Advocate Shri P.P. Khurana)

Versus

1. Delhi Administration,
through its Chief Secretary,
5 Sham Nath Marg,
Delhi-110 006.
2. The Directorate of Education,
Delhi Administration,
Old Secretariat,
Delhi.

... Respondents

(By Ms. Meera Chhibar, Advocate)

ORDER

HON'BLE MR. J.P. SHARMA, MEMBER (J)

The applicant is aggrieved by his non-appointment as Trained Graduate Teacher (TGT) in spite of the fact that he had duly qualified in the examination held by the respondents No. 2 and the result was declared on 30th July 1991 showing him successful under Roll No. 213238.

2. The applicant claimed for the direction to the respondents to appoint the applicant to the post of TGT as per the result announced.

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3. The applicant has moved MP No. 3026/93 for condoning the delay in filing this application on 4.9.1993 on the ground that he had earlier filed a writ petition under wrong advice in the High Court of Delhi in July 1992 but the same was withdrawn on 24.8.1993 as the respondents had taken the objection on jurisdiction of the High Court to decide the matter.

4. The respondents decided the application and averred that the age limit prescribed for TGT was between 18 to 30 years as on July 14, 1990. The relaxation in age in the upper limit was available only to Government servants for five years. The date of birth of the applicant is August 1957 and he was over age on 14.7.1990 which was cut off date and since he has not been a Government servant age relaxation could not be granted to him. It is further stated that it was one of the conditions of eligibility for taking the examination that the candidate should be between the age group of 18-30 years. At the time when the application form was filled up it was specifically mentioned that provisionally without any scrutiny all the candidates should be allowed to take the examination and only after the declaration of the result appointment letters will be issued to those successful candidates who fulfil all the conditions of advertisement and were found eligible for the said post as per recruitment rules. The applicant has been informed that because of being over age he was not eligible to take the examination on 14.7.1990. Thus, the applicant could not be given

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appointment and in the result published it was also specifically mentioned that those who are eligible according to the advertisement and recruitment rules shall be given offer of appointment. The application, therefore is devoid of merit.

5. We have heard the learned counsel of the parties at length and perused the record. The applicant is already in employment as a Chowkidar Grade IV post in Mahamana Middle School, Jagatpuri and that institution is not run by the Delhi Administration and is only a Government aided institution as such the applicant cannot claim in relaxation of age available to similar situated Government servants. Merely, because the institution is aided by the Delhi Administration would not be itself make all those serving in the private institution as public servants. The learned counsel, however, desired to amend the application after the arguments coming to an end that it is discriminatory but that prayer of giving permission to amend application could not be accepted. Firstly, because it was only after the advance stage of arguments of the request was made orally and further the Government servant is a class by itself and cannot in any way be equated with those who are working in private institutions.

6. However, we have considered the case on merit. There is no doubt that the applicant is educationally qualified to take the examination held in 1990.

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It is also not disputed that he has successfully cleared the examination and his result was published. The only hurdle in his case is that he has become over age at the time when he took the examination in July 1990. The Date of Birth of the applicant is August 1957 and he has completed 30 years in August 1987. Thus in July 1990 he is about 33 years of age. The respondents, therefore, cannot be faulted with in not giving appointment to the applicant as the advertisement published by the respondents in para 2 clearly lays down that the applicant should have attained the age of 18 years and should not be more than 30 years. In the instructions it is clearly laid down that Delhi Administration will not undertake any scrutiny of the application before written examination and all applicant will be allowed to appear on purely provisional basis subject to the eligibility being verified after the written examination.

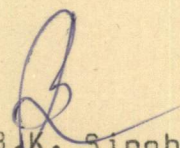
↓ According^{ly} because an applicant has been allowed to appear in the written examination will not be considered as a ground for his being eligible for the recruitment. This therefore, gives burden on the applicant to show that he is otherwise eligible because of age also to take the said examination. There is nothing on record to show that any relaxation in age is admissible to the applicant.

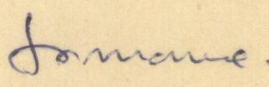
7. The learned counsel for the applicant has however, argued that this is a case where on account of compassion, the applicant should be allowed because he has ^{been} already working as Chowkidar since 1977

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in an institution aided by Delhi Administration. The counsel for the respondents, however, argued that giving relaxation to one individual will automatically make others such aspirants to claim relaxation of age. However, the case of the applicant can be considered by the respondents sympathetically as he has not been conveyed any written reply and it is only he learnt that because of his over age he is not being given appointment. The respondents may take it as a one time exception and not to be treated as precedent consider the case of the applicant sympathetically, if the circumstances so warrant.

8. In view of the above facts and circumstances the MP for the condonation of delay is allowed. However the application is dismissed on merit. The respondents may consider in spite of this order the case of the applicant sympathetically if circumstances so warrant. Costs on parties.


(B.K. Singh)
Member(A)


(J.P. Sharma)
Member(J)

Mittal