

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.299/2015
With
O.A.No.145/2015

Tuesday, this the 11th day of August 2015

**Hon'ble Mr. A.K. Bhardwaj, Member (J)
Hon'ble Mr. V.N. Gaur, Member (A)**

O.A.No.299/2015

1. Abhimanyu
S/o Sh. Dhara Singh
Aged about 31 years
R/o H.No.877, Vill. Pooth Khurd,
Delhi-110039 Post of P.G.T. Teacher
2. Rosy
D/o Sh. Ranbir Singh
Aged about 26 years
R/o Ho.No.422, V.P.O. Pooth Khurd,
Delhi-110039.
3. Nakender
S/o Sh. Naseeb Singh
Aged about 25 years
R/o H.No.326, Post of P.G.T. Teacher
Pooth Khurd,
Delhi-110039.
4. Vijay Laxmi
D/o Shri Ram Phal
Aged about 23 years
H.No.132, Dada Maldev Road,
V.P.O. Daryapur Kalan,
Delhi-110039. Post of P.G.T. Teacher
5. Pooja
D/o Lokesh Kumar Garg
Aged about 23 years
26-A-Chanderlok,
Gali No.1, Mandoli Road,
Shahdara,Delhi-110093. Post of P.G.T. Teacher
6. Mausam Kumari
D/o Shri Karan Singh
Aged about 33 years
R/o RZ-51/211, I Block,

Gali No.8-F, West Sagarpur,
New Delhi-110046. Post of P.G.T. Teacher

7. Jyoti Meena
D/o Mr.Lakhan Lal Meena
Aged about 27 years
R/o K-170, Gali No.K-19/A,Ratiya Marg,
Sangam Vihar,
New Delhi-110062. Post of P.G.T. Teacher
8. Anu Bhardwaj
D/o Shri Ajit Singh
Aged about 24 years
R/o D-8/112, Sector 6,
Rohini,
Delhi-110085. Post of P.G.T. Teacher
9. Deepika Papnai
D/o Chander Shekhar Papnai
Aged about 23 years
R/o H.No.3, Gali No.4, A Block,
West Karawal Nagar,
Pusta Road, New Delhi-110094. Post of P.G.T. Teacher
10. Manisha
D/o Shri Mahendra Singh
Aged about 25 years
R/o H.No.51, VPO Mubarikpur,
Dabas,Delhi-110081. Post of P.G.T. Teacher
11. Ravi Kumar
S/o Shri Pyare Lal
Aged about 24 years
R/o Village Rambag
Post Bahatana Tehsil Deeg,
Distt. Bharatpur, Rajasthan.
12. Anil Sahu
S/o Sh. Dinesh Sahu
Aged about 25 years Post of P.G.T. Teacher
Tehsil Road Mahwa
Distt. Dausa, Rajasthan
Pin-321608.
13. Mithlesh
D/o Shri Prem Singh
Aged about 28 years
R/o B-2/6, Kondli,
P.O. Vasundhara Enclave,
New Delhi-110096. Post of P.G.T. Teacher

14. Raju Rathore
S/o Sh. Netrapal
Aged about 26 years
R/o A-306. Gali No.3,
Rama Garden, Post of P.G.T.Teacher
Karawal Nagar, Delhi-110094.
15. Mennakshi Sehrawat
D/o Shri Rishipal Sehrawat
Aged about 31 years
R/o U-35/72, D.L.F.-Phase 3,
Gurgaon-122002 (Haryana) Post of P.G.T. Teacher
16. Poonam Gupta
D/o Shri Subhash Chander Gupta
Aged about 27 years
R/o H.No.1/5192, Street No.7,
Balbir Nagar, Shahdara,
Delhi-110032. Post of P.G.T. Teacher
17. Chandra Shekhar
S/o Shri Prabhu Dayal
Aged about 34 years
R/o A-1, Lions Enclave,
Main Ranholi Road,
Vikash Nagar, Uttam Nagar,
New Delhi-110059. Post of P.G.T. Teacher
18. Amit Jayant
S/o Shri Satyapal Singh
Aged about 31 years
Old Syndicate Bank Street,
Vinay Colony, Bawana,
Delhi-110039. Post of P.G.T. Teacher
19. Vandana Jayant
D/o Satyapal Singh
Aged about 28 years
Old Syndicate Bank Street,
Vinay Colony, Bawana,
Delhi-110039. Post of P.G.T. Teacher
20. Sneha Lata
D/o Hukam Singh
Aged about 29 years
R/o 156, Harijan Basti,
Village Khampur,
P.O. Alipur,
Delhi-110036. Post of P.G.T. Teacher
21. Shobha
D/o Hukam Singh

Aged about 24 years
 R/o 156, Harijan Basti,
 Village Khampur,
 P.O. Alipur,
 Delhi-110036. Post of P.G.T. Teacher

22. Kirti
 D/o Sarwar Singh Malik
 Aged about 23 years
 R/o L-409, Gali No.1,
 Bankner Extn.
 Bankner, Narela
 Delhi-110040. Post of P.G.T. Teacher
23. Sakshi
 D/o Dev Prakash
 Aged about 23 years
 R/o H.No. 462, Bankner Extn.
 Narela, Delhi-110040. Post of P.G.T. Teacher
24. Sandeep Punia
 S/o Sh. Dhoop Singh
 Aged about 27 years
 V.P.O. Ladwa,
 Distt. Hissar,
 Delhi-110039. Post of P.G.T. Teacher
25. Sapna D/o Sh. Rohtas
 Aged about 23 years
 R/o H.No.302, V&P.O. Ghuman Hera,
 New Delhi-110073. Post of P.G.T. Teacher
26. Parul Chaudhary W/o Shri Sandeep Dhankar
 Aged about 28 years
 R/o H.No.185/42-B,
 Krishna Gali No.8,
 Maujpur, Delhi-110053. Post of P.G.T. Teacher
27. Reena Narwal D/o Shri Ramchander Narwal
 Aged about 31 years
 R/o H.No.C-22, Gali No.12,
 Main Gopal Nagar, Post of P.G.T. Teacher
 Najafgarh, New Delhi
28. Dharmender Kumar S/o Giraj Singh,
 Aged about 30 years
 V.P.O. Gehlab,
 Tehsil Hathin, Distt. Palwal
 Pin-121103. Post of P.G.T. Teacher
29. Lalita D/o Banarsi Dass,
 Aged about 35 years

R/o F-1/7, Sector XI, Rohini,
Delhi-110085. Post of P.G.T. Teacher

30. Meena W/o Sh. Naveen Rai,
Aged about 35 years
R/o RZ-686/16, Gali No.27E2,
Sadh agar-II, Palam Colony,
New Delhi-110045. Post of G.T. Teacher
31. Ravikant S/o Sh. Partap Singh,
Aged about 26 years
R/o Plot No.32, Gali No.1,
Asthal Colony, Narela Road,
Bawana, Delhi-110039. Post of P.G.T. Teacher
32. Sushila Kumari, D/o Shri Sultan Singh
Aged about 23 years
R/o 2751/10, Ram Gopal Colony,
Rohtak-124001. Post of G.T. Teacher
33. Ankit Dabas, S/o Shri Baljeet Singh
Aged about 24 years
R/o V.P.O. Ladpur,
Delhi. Post of G.T. Teacher
34. Sneh, D/o Shri Satyapal
Aged about 24 years
Pillar 538, V.P.O. Mundka,
Delhi. Post of G.T. Teacher
35. Anand Kumar S/o Sh. Partap Singh,
Aged about 31 years
R/o B-2/580, Street No.25,
Harsh Vihar,
New Delhi-110093. Post of P.G.T. Teacher
36. Sharmila W/o Shri Joginde Singh
Aged about 32 years
R/o V.P.O. Daulatpur,
New Delhi-110043 Post of G.T. Teacher
37. Neetu D/o Shri Radhe Lal
Aged about 23 years
R/o 77/B-1, Nanda Enclave,
Khera Road, Najafgarh,
New Delhi. Post of G.T. Teacher
38. Monika Gulia, D/o Shri Jai Singh
Aged about 28 years
R/o RZ-287, Nanda Enclave,
B Block, Gopal Nagar,
Najafgarh, New Delhi. Post of G.T. Teacher

39. Mohit Kumar, S/o Sh. Ramesh Kumar,
 Aged about 27 years
 Village Paprawat,
 Near Durga Mandir,
 Post Office Najafgarh,
 New Delhi-110043. Post of P.G.T. Teacher

40. Monu Kumar Meena, S/o Shri Ram Kishore Meena,
 Aged about 25 years
 V.P.O. Bhajera,
 Teh. Reni, Distt. Alwar,
 Pin 301409 (Rajasthan). Post of P.G.T. Teacher

41. Sandeep Kumar, S/o Shri Jagdish Prasad,
 Aged about 23 years
 Near Power House, Kishangarh-Bas,
 Alwar (Rajasthan)
 Pin-301405. Post of P.G.T. Teacher

42. Ramawtar, S/o Shri Anadi Lal,
 Aged about 28 years
 Rai Gar, V.P.O. Rahuwas,
 Teh. Lalsot, Distt. Dausa,
 Pin-303505 (Rajasthan). Post of P.G.T. Teacher

43. Jeevan Singh, S/o Shri Yad Ram,
 Aged about 26 years
 R/o Vill. Rambag,
 P.O. Bahatana,
 Teh. Deeg, Distt. Bharatpur
 Rajasthan. Pin-321203 Post of P.G.T. Teacher

44. Ram Lakhan Gupta, S/o Kailash Chand Gupta,
 Aged about 24 years
 R/o 207, Brij Vihar,
 Jagatpura, Jaipur (Rajasthan),
 Pin 302017. Post of P.G.T. Teacher

45. Raghubeer Biloniya, S/o Sh.Bodan Lal Biloniya,
 Aged about 25 years
 Village Hamawas, Post Chudiyawas
 Teh. Lalsot Distt. Dausa,
 Pin 303505 (Rajasthan). Post of P.G.T. Teacher

46. Arun Kumar Mourya, S/o Shri Prem Chand Mourya
 Aged about 25 years
 V.P.O. Parasrampura,
 Teh.Nawalgarh
 Distt. Jhunjhunu (Rajasthan)
 Pin 333308. Post of P.G.T. Teacher

47. Gajendra Prasad Bairwa, S/o Shri Badri Lal Bairwa
 Aged about 34 years
 V.P.O. Bapoti,
 Teh. Sapotra
 Distt. Karauli (Rajasthan)
 Pin 322218. Post of P.G.T. Teacher

48. Naina Yadav D/o Shri Surender Kumar
 Aged about 24 years
 R/o Village Pandawala Khurd,
 P.O. Najafgarh,
 New Delhi.-110043 Post of G.T. Teacher

49. Sangeeta D/o Ranjit Singh
 Aged about 27 years
 R/o 714/6, Govindpuri,Kalkaji,
 New Delhi.-110019 Post of G.T. Teacher

50. Nitika D/o ShriAshok Kumar
 Aged about 25 years
 R/o 22/2, Moti Bagh,
 Near Satya Niketan,
 New Delhi-110021. Post of G.T. Teacher

51. Neeraj Kumari D/o Shri Kishori Lal
 Aged about 26 years
 R/o A-118, Street No.2,
 Bhagirath Vihar,
 New Delhi-110094 Post of G.T. Teacher

52. Jyoti Gahlot D/o Shri Radhe Lal
 Aged about 23 years
 R/o C-48, 3rd Floor, Sudershan Park,
 Post of G.T. Teacher
 Near Moti Nagar,
 New Delhi-15

53. Jyoti Malik D/o Shri Ashok Kumar Malik
 Aged about 24 years
 R/o RZM-3, New Roshanpuri
 Najafgarh
 New Delhi-110043 Post of G.T. Teacher

54. Anita Kanwar D/o Shri Ram Singh
 Aged about 34 years
 WZ-41, Second Floor, Gali No.9/4, Sadh Ngar,
 New Delhi-110045 Post of G.T. Teacher

55. Neetu Kumari D/o Shri Sugarh Singh
 Aged about 25 years
 R/o C-113, Telecom Staff Quarter Vivek Vihar,
 Delhi-110095 Post of G.T. Teacher

56. Baljeet,
 S/o ShriTerram Tanwar
 Aged about 34 years
 R/o V.P.O. Prithala,,
 Tehsil. & Distt. Palwal
 Haryana-121102. Post of P.G.T. Teacher

57. Kuldeep,
 S/o Shri Rajender Singh
 Aged about 27 years
 V.Jharsently,
 P.O. Ballabgarh,
 Distt. Faridabad (Haryana)
 Pin-121004. Post of P.G.T. Teacher

58. Devshri d/o Shri Chander Pal
 Aged about 30 years
 r/o H.No.1725, Gali No. E-54
 2nd 60 Feet Road, Molar Band Extn.
 Badarpur, New Delhi-44 Post of PGT Teacher

59. Deepak Kumar s/o Shri Ram Kumar
 Aged about 29 years
 r/o H.No.4760, Azad Pur Village
 Railway Road, Delhi-23 Post of PGT Teacher

60. Rakesh Kumar s/o Shri Ram Pana Milhani (Jhalpuria)
 Aged about 28 years
 VPO Nahri Distt. Sonepat (Haryana)
 Pin 131 103 Post of PGT Teacher

61. Poonam d/o Shri Surender Singh
 Aged about 28 years
 r/o Mata Wali Gali
 Holi Chowk, VPO Bharthal
 New Delhi-77 Post of PGT Teacher

62. Sushma d/o Shri Satyawan Singh
 Aged about 25 years
 r/o M-509, Mangolpuri
 New Delhi-83 Post of PGT Teacher

63. Savita d/o Shri Dayanand
 Aged about 29 years
 r/o H.No.31, VPO Dichao Kalan
 New Delhi-43 Post of PGT Teacher

64. Alok Dahiya s/o Shri Virendra Dahiya
 Aged about 24 years
 r/o 8/53, Teacher Colony
 Barahi Road,

**Bahadurgarh, Jahajjar,
Haryana PIN 124507** **Post of PGT Teacher**

..Applicants

(Mr. V.S.R.Krishna, Advocate)

Versus

1. Delhi Subordinate Services Selection Board, Through its Secretary FC-18, Institutional Area, Karkardooma, Delhi -110092.
2. The Chief Secretary Govt.of NCT of Delhi Delhi Secretarial , I.P Estate, New Delhi. -110002.
3. The Commissioner North Delhi Municipal Corporation, 4th Floor, Civic Centre, J.L. Nehru Marg, New Delhi -110 002.
4. The Commissioner South Delhi Municipal Corporation 9th Floor, Civic Centre, J.L. Nehru Marg, New Delhi -110 002.
5. The Commissioner, East Delhi Municipal Corporation, 419, U Industrial Area, Patparganj, Delhi -110092.

.. Respondents

(Mr. Amit Anand, Advocate for respondent Nos. 1 & 2 – Mr. S P Jain, Advocate for respondent No.3 – Nemo for other respondents)

O.A.No.145/2015

1. Anuj Kumar Dagar, 23 Years
S/o Sh. Narendra Kumar
R/o H.No. 185,
Near Kuldeep Dagar House,
VPO Malikpur, New Delhi. 110073.
2. Nisha Rani, 26 Years
D/o Sh. Kailash Kumar

R/o H. No. 140, Street No. 4
 Rajiv Colony, Narela, Delhi -1100040.

3. Renu Chaudhary 25 Years
 D/o shri Ramesh Chaudhary
 R/o H. No. D-1/22, Munshiram Gali,
 Nehru Vihar, Karawal Nagar, Delhi-110094.
4. Jyoti 27 Years
 D/o Shri Sant Ram
 R/o H. No. 774, Near PNB
 Khera Khurd, Delhi-110 085.
5. Anuradha d/o Yashpal Singh
 r/o F-Z 130/131, Sector 11
 Rohini, Delhi-85
6. Meenakshi Shokeen 26 Years
 D/o Shri Ram Kumar Shokeen
 127, Mangolpur Khurd,
 Delhi-110 085.
7. Megha 24 Years
 D/o Sh. Surender Kumar
 Tri Nagar, Delhi-110035.
8. Sangeeta D/o Sh. Satpal 31 Years
 R/o 213, V& P.O. Rani Khera,
 Delhi-110 081.
9. Akansha S/o Sh. Mahesh Singh 27 Years
 R/o 6/45, Mohalla Maha Ram, Shahadara, Delhi-110032.
10. Rubeena Parveen 26 Years
 D/o Shri Nishar Ahmed
 R/o C-72, Street No. 8
 North Ghonda Ext., Delhi-110053.
11. Chanchal Gupta 24 Years
 D/o Sh. Ravi Kumar Gupta,
 R/o 12-A, New Krishna Nagar,
 Shankar Gali No.7,
 Delhi-110 051.
12. Sonakshi Jain 28 Years
 D/o Rajesh Jain,
 R/o E/131/E, Phase 1, Ahsok Vihar Delhi -110052.
13. Ravi Kumar 25 Years
 S/o Shri Banwari Lal
 R/o C-8/460, Sultan Puri, Delhi-110086.

14. Shivam Kumar 28 Years
S/o Shri Harish Chandra,
R/o 21/11, Trilok Puri, Delhi -110091.
15. Parul Parcha 25 Years
D/o Gopal Singh
R/o 4/276, Trilok Puri,
Delhi-110 091.
16. Nilima 25 Years
D/o Raj Singh, R/o H.No. 410,
Near Shiv Mandir, Naya Panna VPO Ladpur, Delhi-110081
17. Renu Yadav 25 Years
D/o Shri Rajinder Kumar Yadav
R/o H. No. 291, Village Bhalaswa, Delhi-110033.
18. Sapna D/o Brij Mohan 23 Years,
R/o B-4, Sanjay Enclave, Uttam Nagar, New Delhi-110059.
19. Sunit Bali Meena 25 Years,
D/o Sh. Kalyan Shai Meena
R/o RZF-1143, Raj Nagar Part -II
Palam Colony, New Delhi.
20. Savita Dalal 25 Years
D/o sh. Satbir Dalal, R/o 11/186, Street No.1,
Nehru Park, Bahadurgarh, Haryana Pin 124507.
21. Shalini Shokeen 26 Years,
D/o Shri Rajpal Shokeen,
R/o H. NHO. 9, Mangol Pur Khurd, Delhi-110083.
22. Monika Shokeen 26 Years
D/o Rajender Shokeen
R/o H. No. 9, Mangolpur Khurd,
Delhi-110083.
23. Anupma Dhaka 25 Years
D/o Shri Randhir Singh
R/o H. No. 235, Gali No.4,
Ashok Mohalla, Nangloi,
Delhi-110 041.
24. Neha Yadava 23 Years
D/o Shri Surender Singh
R/o 247, VPO Begumpur,
OPP, Sector 22, Rohini,
Delhi-110 086.
25. Deepika 27 Years
D/o Shri Kartar Singh,

R/o RZE-672/16, Street No. 27 F
Sadh Nagar, New Delhi -110045.

26. Jai Bhagwan S/o Sh. Man Singh 25 Years
D/o Shri H.No. 370, VPO Mitrao, Najaggarh, New Delhi-110043.
27. Joyoti Kodan 23 Years
D/o R.K. Kodan, R/O RZ-58, B Block, Surakhpur Road, Phase-II,
Gopal Nagar, Najafgarh, New Delhi.
28. Kavita Yadav 24 Years
Gopal Nagar, Najafgarh New Delhi -23
29. Mariyam Riaz 28 Years
D/o Riazuddin, R/o 27/154, Block 27
Trilok Puri, New Delhi-110 091.
30. Devki 23 Years
D/o Shri Surajmal
R/o C-76A, B.S. Marg, Street No.8, Shalimar Village,
New Delhi-110 088.
31. Preeti 23 Years
D/o Randhir Singh R/o RZP-3, 191, New Roshan Pura,
Najafgarh, New Delhi -110083.
32. Priyanka Sharma 24 Years
D/o Shri Vinod Kumar Sharma,
R/o RZ-14, Jain Colony Part III
Uttam Nagar, New Delhi.
33. Geeta 29 Years
W/o Shri Priyawrat Yadav
R/o VPO Khaira Najafgarh, New Delhi.
34. Vichiter 25 Years
S/o Shri Daramveer Singh
86, VPO Hiran Kudna,
New Delhi-110041.
35. Dinesh Gahlot 23 Years
S/o Shri Krishan Gahlot
R/o H. No. 141, VPO Kakrola,
New Delhi -110 078.
36. Annu Solanki 24 Years
D/o Sh. Phook Singh,
R/o B-9 Nishant Park,
2nd Floor Near Dwarka Metro Station
Old Palam Road, New Delhi.
37. Ritu Yadav 23 Years
D/o Inder Singh Yadav, R/o RZ-93, D Block, Prem Nagar, Gali NO. 2

Najafgarh, New Delhi -110043.

38. Rahul Kumar 27 Years
 S/o shri Rameshwar Singh
 R/o C-78A, Gali NO. 8, Jyoti Colony,
 Durga Puri Chowk, Shahdara, Delhi -110032

..Applicants

(Mr. V.S.R.Krishna, Advocate)

Versus

1. Delhi Subordinate Services Selection Board, Through its Secretary FC-18, Institutional Area, Karkardooma, Delhi -110092.
2. The Chief Secretary Govt.of NCT of Delhi Delhi Secretarial , I.P Estate, New Delhi. -110002.
3. The Commissioner North Delhi Municipal Corporation, 4th Floor, Civic Centre, J.L. Nehru Marg, New Delhi -110 002.
4. The Commissioner South Delhi Municipal Corporation 9th Floor, Civic Centre, J.L. Nehru Marg, New Delhi -110 002.
5. The Commissioner, East Delhi Municipal Corporation, 419, Udyog Sadan, Industrial Area, Patparganj, Delhi -110092.

.. Respondents

(Mr. Amit Anand, Advocate for respondent Nos. 1 & 2 –
 Mr. S P Jain, Advocate for respondent No.3 – Nemo for other respondents)

O R D E R (ORAL)

Mr. A.K. Bhardwaj:

These two Original Applications (O.A.Nos.299/2015 and 145/2015) raise common question of law and facts, thus are taken up for disposal together.

2. Vide Advertisement No.004/09, Government of NCT of Delhi (Delhi Subordinate Services Selection Board) invited applications to fill up *inter*

alia 4500 posts of Teacher (Primary) in Municipal Corporation of Delhi (MCD) (Post Code No.70/09). Relevant excerpt of the Advertisement including the category-wise breakup of the vacancies reads thus:-

Name of the Post : Teacher (Primary) in MCD	Post Code : 70/09
Number of Vacancies: 4500(UR-1900, OBC-1044, SC-766 ST-790, including PH (OH-OA/OL/BL)-52, PH (VH-B/LV)-96, EXSM-982)	
Essential Qualifications: 1. Sr. Secondary (10+2) or Intermediate or its equivalent with 50% marks from a recognized Board.	
2. Two years diploma/Certificate course in ETE/JBT or B.El.Ed. from recognized institutions or its equivalent.	
3. Must have passed Hindi as a subject at Secondary level.	
Desirable Qualification: Computer knowledge. Pay Scale: 9300-34800/- plus Grade Pay Rs.4200/-	
Group – ‘C’ Non-Gazetted, Probation Period: Two years	
Age Limit: 20-27 years. Relaxable for SC/ST-05 years, OBC-03 years, PH-10 years, PH&SC/ST-15 years, PH&OBC-13 years, Departmental employees upto 42 years of age (general), upto 47 years from SC/ST, having 03 years of continuous service in the same line or allied cadres. Relaxable upto 37 years for (general) and upto 42 years for SC/ST – for widows, divorced women and women judicially separated from their husband and who are not re-married.	
(R.No.F/D/DEO/TRC/09/531 dated 30.10.09)	

3. The closing date for receipt of the applications mentioned in the Advertisement was 15.1.2010. Subsequently, the Board issued a corrigendum (Annexure A-6) and the candidates, who had become eligible for the post on the basis of the changed criteria, were given an opportunity to apply for the post in question within two weeks of the publication of corrigendum. For easy reference, the corrigendum is reproduced hereinbelow:-

“Corrigendum of Advertisement Number 04/2009 and Notice inviting applications for the Post of Teacher (Primary) (Urdu) (Post Code-69/09), Teacher (Primary) (Post Code -70/09) in MCD and Assistant Teacher Primary (Post Code – 71/09) in Directorate of Education, GNCT Delhi in respect of SC/ST/PH Candidates

For

Essential Qualifications:

1. Sr. Secondary (10+2) or Intermediate or its equivalent with 50% marks from a recognized Board.
2. Two years diploma/Certificate course in ETE/JBT or B.El.Ed. from recognized Institutions or its equivalent.
3. Must have passed Hindi (for post code 69/09-Urdu) as a subject at Secondary level.

Desirable Qualification: Computer knowledge.

Read as

Essential Qualifications:

1. Sr. Secondary (10+2) or Intermediate or its equivalent with 45% marks from a recognized Board.
2. Two years diploma/Certificate course in ETE/JBT or B.El.Ed. from recognized Institutions or its equivalent.
3. Must have passed Hindi (for post code 69/09-Urdu) as a subject at Secondary level.

Desirable Qualification: Computer knowledge.

In view of the above SC/ST/PH applicants who have become eligible on the basis of above changed criteria may apply for the above mentioned posts within two weeks of this advertisement i.e. up to 08-03-2010.

The crucial date for determining the age and attaining the requisite qualification shall remain unchanged i.e. 15-01-2010. The rest of the contents of advertisement no.04/2009 published in Employment News dated 26-12-2009 – 01-01-2010 shall also remain the same. The application form can be downloaded from the website of DSSSB www.dsssb.delhi.govt.nic.in.

Note: SC/ST/PH candidates who have already applied earlier in response to advertisement no.04/2009 for the post code 69/09, 70/09 and 71/09 need not apply again.”

4. Yet again, on 13.9.2011, the respondents issued Notice No.F.2(40)/2009/P&P/DSSSB/8289 dated 13.9.2011 giving opportunity to

the candidates, who were eligible on 15.1.2010, to apply for the post by 17.10.2011. The relevant excerpt of the Notice reads thus:-

“Besides above, the prospective eligible candidates, who fulfill the eligibility conditions as on 15-01-2010, can also apply against advt. No.004/2009 for the said posts on the prescribed form as given in section-D of the said advt. which can be down loaded from the Board’s website www.dsssb.delhigovt.nic.in. The application form must be accompanied with a fee of Rs.100/- as per the mode of payment detailed above. Applicants belonging to SC/ST/PH category will be exempted for payment of the requisite fee subject to submission of duly attested copies of relevant certificates in support of their claim. The prospective candidates must read the detailed instructions along with terms and conditions mentioned in advt. no.004/2009 before applying for the above posts. The candidates who have already submitted their application form in response to advt. no.004/2009 are not required to apply again except for depositing the additional fee of Rs.50/- as mentioned above.

All the other details and terms & conditions as contained in the original advt. no.004/2009 shall remain unchanged.

The eligibility of the candidates with regard to educational qualifications, age, experience etc. shall be determined as on 15-01-2010 i.e. the closing date of receipt of application as invited vides advt. no.004/2009.

The candidates should submit the documents at the reception counter of the Board between 16-09-2011 to 17-10-2011 on all working days (except Saturdays, Sundays and Gazetted/Public Holidays) from 10.00 AM to 5.00 PM. Documents received after the prescribed period shall not be entertained under any circumstances.”

5. In the wake, the applicants herein applied for the post. Nevertheless, since they were not eligible as on cut-off date, i.e., 15.1.2010, the Board did not issue them the admit cards to participate in the examination, thus they approached this Tribunal by way of O.A.Nos.3663, 3599, 3719, 3691, 3699, 3708, 3718, 4363, 3721, 3727, 3728, 3729, 3732, 3733, 3734, 3735, 3736, 3737 and 3772 of 2011. The said Original Applications were taken up and disposed of by a common Order on 30.3.2012 whereby the Tribunal could strike down the cut-off date fixed by the Board, i.e., 15.1.2010 and change

the same to 17.10.2011. Operative portion of the Order passed by the Tribunal reads thus:-

“33. In the above facts and circumstances of the case, we allow these O.As. Resultantly, we declare that the impugned notice dated 13.09.2011 fixing 15.01.2010 for determination of the eligibility of the candidates with regard to their educational qualifications, age, etc. is arbitrary, illegal and unconstitutional and accordingly the same is quashed and set aside to that extent. Further, the respondents shall treat the closing date for receipt of applications of the applicants in terms of the impugned notice dated 13.09.2011 i.e. 17.10.2011 based on the Recruitment Regulations, 2011 as crucial date for determining the eligibility of the applicants with regard to their educational qualifications, age, etc. as well. The interim direction passed in these cases directing the respondents to accept the applications of the applicants provisionally and subject to their fulfilling all other eligibility conditions is made absolute. The respondents are also directed to proceed with selection process to the post of Teacher Primary (Post Code No. 70/09) and Assistant Teacher (Primary) in the MCD and the Directorate of Education respectively in terms of the aforesaid directions and finalize it at the earliest. No costs.”

6. The Order was challenged by the Government of NCT of Delhi before the Hon’ble High Court of Delhi. Nevertheless, instead of filing separate petitions against the applicants in all the Original Applications, the DSSSB challenged the Order passed in **Preeti Balayan & another v. DSSSB & another**, i.e., O.A. No.3663/2011 alone. The Writ Petition (C) No.3397/2012 preferred before the Hon’ble High Court of Delhi was disposed of in terms of the Order dated 6.2.2013 and the Order passed by this Tribunal, changing the cut-off date from 15.1.2010 to 17.10.2011, was reversed. Paragraphs 24 to 26 of the Order passed by the Hon’ble High Court reads thus:-

“24. The first reason of the law which acts as our compass is that ordinarily vacancies have to be filled up from amongst the eligible Candidates pertaining to the year of the vacancy and if for some reasons the selection process is postponed, only those who were eligible in the year of the vacancy should be considered. The second reason of the law which acts as our compass is that wherever in an

ongoing process a derailment takes place at a particular point, the rail should be put back at the point where it derailed after removing the cause of derailment and letting the train chug along.

25. Guided by the aforesaid two reasons of law we unhesitatingly reach the conclusion that the only corrective action which could be directed to be taken was, as was directed by the Tribunal when the Original Applications filed by Candidates who pointed out a hiatus between retaining the upper age limit of 27 years and the classification of the post was decided with a direction to amend the Recruitment Rule and issue a Corrigendum making eligible Candidates up to the age of 30 years; requiring the cut-off date January 15, 2010 to be retained. The subsequent decision mandating that the eligibility cut-off date should be shifted to October 17, 2011 would amount to modifying the track and as a result making ineligible many Candidates who cross the age of 30 years as of January 15, 2010. It must be also remembered that the vacancies pertained to the vacancy year 2010 and this explains the cut-off date being January 15, 2010.

26. Accordingly, we dispose of the Writ Petition setting aside the impugned judgment and order dated March 30, 2012 leaving the parties to bear their own costs.”

8. In the meantime, the applicants herein had participated in the examination but since they were not eligible for the post in question on 15.1.2010, in the wake of the Order of the Hon’ble High Court, the DSSSB issued impugned office order No.343 dated 5.12.2014 cancelling their candidatures on the ground that they had passed the ETE after the cut-off date, i.e., 15.1.2010. Thus the applicants filed the present O.A. Nos.145/2015 & 299/2015. The prayer made in the Original Applications reads thus:-

- “a) pass appropriate order or direction thereby holding and declaring the impugned Rejection Notice vide Office Order No.344 dated 05.12.2014 as arbitrary, irrational and unconstitutional;
- b) Set aside the impugned Rejection Notice vide Office Order No.344 dated 05.12.2014;
- c) pass appropriate order or direction thereby holding and declaring that the Applicants herein are eligible and qualified for the appointment to Post Code 70/09-Post Teacher-Primary.

- d) pass appropriate orders declaring that judgment dated 30.03.2012 rendered by the Hon'ble Tribunal in various O.A.'s with O.A. No.3721/2011- Mohd. Arif & Ors Vs. DSSSB & Ors being the lead matter has attained finality qua the Petitioners who have qualified the examination for Post code 70/09;
- e) pass appropriate orders enforcing judgment dated 30.03.2012 rendered by the Hon'ble Tribunal in various O.A.'s with O.A. No.3721/2011-Mohd. Arif & Ors Vs. DSSSB & Ors.
- f) pass appropriate directions to the respondents for appointment to the Applicants to the Post Code No.70/09 alongwith all consequential orders.
- g) pass any other or further order as this Hon'ble Tribunal deem fit and proper in the facts and circumstances of the case;
- h) pass directions for compensatory costs in favour of the Applicants."

9. Mr. V.S.R. Krishna, learned counsel appeared for the applicants and submitted that since after the Advertisement No.004/09 the respondents had issued an addendum (Annexure A-7) and in the addendum the number of vacancies mentioned was 6500, against additional 2000 (6500-4500) vacancies the applicants herein should be considered eligible. He further submitted that the Hon'ble High Court had interfered with the Order of the Tribunal only because the Tribunal had changed the cut-off date, which could have resulted in rendering a number of candidates eligible on 15.1.2010 as ineligible, thus since a number of vacancies have remained unfilled, if both those who were qualified by 15.1.2010 as well as on 17.10.2011, are considered eligible, no one would be prejudiced and the Order passed by the Hon'ble High Court would also be honored.

10. Before Mr. V.S.R. Krishna, learned counsel appeared for them, Mr. Raman Duggal, learned counsel represented the applicants and argued with vehemence that Hon'ble High Court had reversed the Order passed in the

case of **Preeti Balayan v. NCT of Delhi & others** only and the Order would not be applicable to the applicants herein, and qua them the common Order passed by this Tribunal (ibid) has attained finality.

11. Mr. Amit Anand, learned counsel for respondents submitted that once a common Order passed by the Tribunal is quashed in respect of the applicants in one of the petitions, the same would apply to all others and those the Order passed in whose favour is not challenged, cannot claim that the common Order reversed by the superior Court would still stand.

12. To buttress his plea, the learned counsel relied upon the judgment of Hon'ble Supreme Court in **M/s P.D. Amman & others v. State of Karnataka & others** (1985) 2 SCC 513, relevant excerpt of which reads thus:-

“22. Though a large number of writ petitions were filed challenging the Act, all those writ petitions were grouped together, heard together and were disposed of by the High Court by a common Judgment. No petitioner advanced any contention peculiar or individual to his petition, not common to others. To be precise, the dispute in the cause or controversy between the State and each petitioner had no personal or individual element in it or anything personal on peculiar to each petitioner. The challenge to the constitutional validity of 1979 Act proceeded on identical grounds common to all petitioners. This challenge was accepted by the High Court by a common Judgment and it was this common Judgment that was the subject matter of appeal before this Court in Hansa Corporation's case. When the Supreme Court repelled the challenge and held the Act constitutionally valid, it in terms disposed of not the appeal in Hansa Corporation's case alone, but all petitions in which the High Court issued mandamus on the nonexistent ground that the 1979 Act was constitutionally invalid. It is, therefore, idle to contend that the law laid down by this Court in that Judgment would bind only the Hansa Corporation and not the other petitioners against whom the State of Karnataka had not filed any appeal. To do so is to ignore the binding nature of a Judgment of this Court under Article 141 of the Constitution. Article 141 reads as follows :

The law declared by the Supreme Court shall be binding on all courts within the territory of India.

A mere reading of this Article brings into sharp focus its expanse and its all pervasive nature. In cases like this, where numerous petitions are disposed of by a common Judgment and only one appeal is filed, the parties to the common Judgment could very well have and should have intervened and could have requested the Court to hear them also. They cannot be heard to say that the decision was taken by this Court behind their back or profess ignorance of the fact that an appeal had been filed by the State against the common Judgment. We would like to observe that, in the fitness of things, it would be desirable that the State Government also took out publication in such cases to alert parties bound by the Judgment, of the fact that an appeal had been preferred before this Court by them. We do not find fault with the State for having filed only one appeal. It is, of course, an economising procedure.

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25. The fallacy of the argument can be better illustrated by looking at the submissions made from a slightly different angle. Assume for arguments sake that the mandamus in favour of the appellants survived notwithstanding the Judgment of this Court. How do they enforce the mandamus ? The normal procedure is to move the Court in contempt when the parties against whom mandamus is issued disrespect it. Supposing contempt petitions are filed and notices are issued to the State. The State's answer to the Court will be: "Can I be punished for disrespecting the mandamus, when the law of the land has been laid down by the Supreme Court against the mandamus issued, which law is equally binding on me and on you ?". Which Court can punish a party for contempt under these circumstances ? The answer can be only in the negative because the mandamus issued by the High Court becomes ineffective and unenforceable when the basis on which it was issued falls, by the declaration by the Supreme Court, of the validity of 1979 Act."

13. He also placed reliance upon the judgment of Hon'ble Supreme Court in **Maj. Genl. A.S. Gauraya & another v. S.N. Thakur & another** 1986 AIR 1440, relevant excerpt of which reads thus:

" The sweep of Article 141 of the Constitution, so far as the Judgments of this Court are concerned, came up for consideration before this Court recently in *Shenoy and Co. v. Commercial Tax Officer* : [1985]155ITR178(SC) to which one of us was a party. It is not necessary to refer to the facts of that case, in detail. Suffice it to say that the contention that the law laid down by this Court in an appeal filed by the State would not bind the other parties against whom the State of Karnataka did not file appeals from a common Judgment, was repelled by this Court in the following words:

...It is, therefore, idle to contend that the law laid down by this Court in that Judgment would bind only the Hansa Corporation and not the other petitioners against whom the State of Karnataka had not filed any appeal. To do so is to ignore the binding nature of a judgment of this Court under Article 141 of the Constitution. Article 141 reads as follows :

“The law declared by the Supreme Court shall be binding on all courts within the territory of India.” A mere reading of this article brings into sharp focus its expanse and is all pervasive nature. In cases like this, where numerous petitions are disposed of by a common judgment and only one appeal is filed, the parties to the common judgment could very well have and should have intervened and could have requested the Court to hear them also. They cannot be heard to say that the decision was taken by this Court behind their back or profess ignorance of the fact that an appeal had been filed by the State against the common judgment....

To contend that this conclusion applies only to the party before this Court is to destroy the efficacy and integrity of the judgment and to make the mandate of Article 141 illusory. But setting aside the common judgment of the High Court, the mandamus issued by the High Court is rendered ineffective not only in one case but in all cases.

Normally, when several matters are disposed of by a common Judgment, and the defeated party files only one appeal against one such matter and succeeds in that matter, he would still be faced with the plea of finality of the Judgment based on res-judicata by those against whom appeals were not filed. But this plea did not find favour with this Court in the above case. It was held that the Judgment rendered by this Court in one appeal, took away the finality of the common Judgment even against those against whom appeals were not filed because of the all pervasive operation of Article 141.

We do not think it necessary to probe further into the facts of this case and lengthen this Judgment, for one good reason; this case has moved along the files of various Courts for more than 15 years and it is high time that we give it a decent burial. In view of the law laid down by this Court in Bindeshwari Prasad Singh's case (supra) we set aside the order of the High Court, allow this appeal and restore the order of the Magistrate, dated 6.1.1972 dismissing the complaint.”

14. He further submitted that once in its Order dated 30.3.2012 the Tribunal had taken note of all the 6500 vacancies and the Order was reversed by the Hon'ble High Court, it cannot be viewed that the applicants

herein can be considered eligible for the additional 2000 vacancies. To buttress his plea, he referred to various paragraphs of the Order passed by the Tribunal in O.A. No.3663/2011 (with connected cases) and the Order passed by the Hon'ble High Court in Writ Petition (C) No.3397/2012

DSSSB v. Preeti Balayan & another.

15. We heard the learned counsels for the parties and perused the record.

16. As far as the ramification of the Order dated 30.3.2015 passed by this Tribunal in batch of Original Applications (ibid) is concerned, we agree with the submissions put forth by Mr. Amit Anand, learned counsel for respondents that once the Order passed by the Tribunal (ibid) was reversed by the Hon'ble High Court (ibid), in the wake of aforementioned judgments of the Apex Court, the same would be deemed reversed qua the applicants in all the Original Applications. There is also sufficient merit in his plea that once the Tribunal had passed the Order after taking note of all 6500 vacancies and once the Order has been reversed by the Hon'ble High Court, it cannot be viewed that the additional 2000 vacancies can be kept separately to determine the eligibility of the applicants herein with reference to the date (17.10.2011), i.e., by which the candidates who were not eligible on 15.1.2010 could submit their applications. Nevertheless, we find that the emphasis of the Hon'ble High Court in the Order passed in Writ Petition (C) No.3397/2012 - **DSSSB v. Preeti Balayan & another** is that the Tribunal could not have interfered with the cut-off date, i.e., 15.1.2010, as the change of cut-off date to 17.10.2011 could render a number of candidates, who were eligible on 15.1.2010, as ineligible.

17. In terms of the ratio *decidendi* of the judgment of Hon'ble High Court, the eligibility of the candidates need to be determined with reference to the year of vacancy. We are also apprised that in the examination / selection process held pursuant to the aforementioned Advertisement, sufficient number of candidates are not found qualified / suitable and a large number of vacancies have remained unfilled. The ramification of such factual position would be that the respondents will have to advertise the posts again to invite the fresh applications to fill up the posts. The applicants before us have already participated in the examination. Maybe by the fresh cut off dates many of the candidates, who were eligible by 17.10.2011, may become ineligible. In the circumstances, in all fairness, the Board may assess the candidatures of the applicants herein against the unfilled vacancies on their own.

18. Subject to aforementioned observations, the Original Applications are disposed of. No costs.

(V.N. Gaur)
Member (A)

August 11, 2015
/sunil/

(A.K. Bhardwaj)
Member (J)