

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A No. 4232/2017

This the 31st day of October, 2018

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)

Ritu Kumari (Ritu Khatuja)
Aged about 40 years,
W/o. Dr. Neeraj Khatuja,
R/o. 24-B/UA,
Jawahar Nagar,
Delhi – 110 007.

...Applicant

(By Advocate : Mr. M. K. Bhardwaj)

Versus

1. Union Public Service Commission,
Through its Chairman,
Shahjahan Road,
New Delhi.
2. Ministry of Health & Family Welfare,
Through its Secretary,
Govt. of India,
Nirman Bhawan,
New Delhi – 110 011.
3. Directorate General of Health Services,
Through its Director General,
Ministry of Health & Family Welfare,
4th Floor, Nirman Bhawan,
New Delhi.
4. Department of Personnel & Training,
Ministry of Personnel, Public Grievances &
Pension, Through its Secretary,
North Block,
New Delhi.

....Respondents

(By Advocate : Mr. R. V. Sinha with Mr. Amit Sinha for
respondent no. 1 and Mr. Satish Kumar)

O R D E R (O R A L)**Justice L. Narasimha Reddy, Chairman :**

The applicant herein was appointed as Assistant Professor (Obstetrics & Gynecology) in the year 2015 by the Govt. of NCT of Delhi, on ad hoc basis, to work in the Dr. Baba Saheb Ambedkar Medical College & Hospital. She is continuing in the same position as of now. The UPSC issued an advertisement in August, 2017 proposing to fill various posts including the one held by applicant, on regular basis. The applicant also submitted her application. Through order dated 17.11.2017, her candidature was rejected on the ground that she is over aged and was not issued call letter for interview. Thereafter, she filed this O.A with a prayer to direct the respondents to extend the relief of relaxation of age for the period during which she worked as Assistant Professor (Obstetrics & Gynecology) on ad hoc basis and to quash the order through which her candidature was rejected. On the basis of the interim order passed by this Tribunal, she was interviewed.

2. The applicant contends that for the past several years, she has been discharging the duties on regular basis in the post of Assistant Professor (Obstetrics & Gynecology)

and that she is entitled to be extended the relief of relaxation of age in the context of regular appointment. Reliance is placed upon judgments of the Hon'ble Supreme Court in **Satya Prakash & Others V. State of Bihar & Others** in (2010) AIR SCW 2112 and **Dr. Nidhi Chopra and others V. Govt. of NCT of Delhi and Others** in W.P. (C) No. 8034/2014 decided on August 12, 2016.

3. Respondents filed counter affidavit stating that the applicant is over aged and there is no provision of relaxation of age limit. It is stated that the position held by the applicant as of now, cannot be equated to that of a Government servant.

4. We heard Mr. M. K. Bhardwaj, learned counsel for applicant, Mr. R. V. Sinha with Mr. Amit Sinha for respondent no. 1 and Mr. Vijendra Singh for respondents no. 2, 4 & 5.

5. The selection of the applicant in the year 2015 as Assistant Professor in Obstetrics & Gynecology was on the basis of an advertisement, followed by an interview. The process may not have been through the UPSC. It appears that the effort at that time was to meet the immediate requirements in the hospital. For one reason or the other,

the same appointment continued for about half a decade, and it is only in August, 2017 that an advertisement was issued by the UPSC for regular selection/appointment. By that time, the applicant crossed the age limit prescribed for that post.

6. The question as to whether the persons holding any post on ad hoc basis are entitled to be regularised or become eligible to be extended the relief of relaxation of age, was considered by various Courts and Hon'ble Supreme Court on several occasions. Though, at one point of time, the directions were issued to regularise the services of the employees appointed on ad hoc basis, on completion of certain length of service, subject to certain conditions, the judgment of Hon'ble Supreme Court in **State of Karnataka V. Uma Devi** JT (2006) 4 SCC 1, has virtually put an end to that. It was held that whatever be the length of service, put up by an employee, on ad hoc or temporary basis, he shall not be entitled to be regularised in the post held by him. However, it was mentioned that as and when steps are taken for appointment on regular basis against those very vacancies, the facility of relaxation of age, to the extent of service rendered by such temporary employees may be extended. Similar directions were issued in the judgment

of the Supreme Court in Dr. Nidhi Chopra & Others V. Government of NCT of Delhi (supra). As a matter of fact, Dr. Nidhi Chopra, is similarly situated as the applicant herein. She too was initially appointed by the Government of NCT on ad hoc basis, and the advertisement was issued by UPSC at a later stage to fill the same vacancy.

7. We are of the view that the applicant deserves to be extended the benefit of relaxation of age limit, to the extent of the service rendered by her on ad hoc basis. It is not in dispute that, if such benefit is extended, the applicant would be within the age limit.

8. We, therefore, direct the respondent no. 2, appointing authority to extend the benefit of relaxation of age to the applicant herein to the extent of service rendered by her on ad hoc basis and if she is found eligible by the UPSC, she shall take seniority as per the ranking assigned by the UPSC.

9. The above process shall be completed within a period of four weeks from the date of receipt of a certified copy of this order. We, however, make it clear that whenever the benefit of relaxation of age limit is extended, it shall be only for one time and in case the candidate is not

selected on being extended the benefit of relaxation of age, she shall not be entitled to similar relief in the next selection process.

10. The O.A is disposed of with the above directions. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/Mbt/