

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

OA No. 2923/2018

This the 31st day of October, 2018

**Hon'ble Mr. K.N. Shrivastava, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)**

Lajja Bati
S/o Sh. Om Prakash
D/o Sh. Rajendra Singh
R/o A-133, Gali No. 8, MadhuVihar
Near Hasanpur Deput, Delhi

....Applicant

(By Advocates :Mr. Pramod Kumar with Mr. Om Prakash Singh)

Versus

1. NCT of Delhi
Through
Director of Education
Old Secretariat
Delhi – 110054.

...Respondent

(By Advocate :Ms. Purnima Maheshwari with
Mr. Jagdish Kumar Pawar – OSD (Litigation zone)

ORDER (ORAL)

Mr. K.N. Shrivastava :

Pursuant to Annexure A-2 Public Notice dated 26.05.2017, inviting applications for the post of Guest Teachers in the academic year 2017-18, the applicant applied for the post of Guest Teacher (TGT – Physical Education). Her date of birth is 14.07.1980. She was not considered for the appointment as Guest Teacher by the respondents on the ground that she had crossed the age limit of 30 years prescribed for the post of TGT - Guest Teacher. The applicant challenged the rejection of her

candidature before the Tribunal in OA No. 737/2018, which was disposed of vide order dated 15.02.2018 with the following order:-

“In view of the above circumstances, without going into the merits of the controversy, this OA is disposed of with a direction to the respondents to take decision on the aforesaid representation of the applicant by passing a reasoned and speaking order within a period of 45 days from the date of receipt a copy of this order”

2. In compliance of the aforementioned direction of the Tribunal, the Deputy Directorate of Education, District East, Directorate of Education, Government of NCT of Delhi has passed impugned Annexure A-1 speaking order dated 22.06.2018 rejecting her application for the post of Guest Teacher (TGT) again on the ground of her being over age as on 01.07.2017.

3. When the OA was taken up for consideration on 24.04.2018, considering the nature controversy involved, we directed Ms. Purnima Maheshwari, learned counsel for respondents to file a short reply within two weeks. However, short reply has not been filed. Nevertheless, learned counsel for respondents agreed to argue the matter even without the short reply.

4. Mr. Pramod Kumar, learned counsel for applicant argued that Annexure A-2 Public Notice had clearly indicated that age limit for female candidate for TGT Guest Teacher is 40 years. The applicant on the crucial date, i.e., 01.07.2017, was 37 years

old and as such the respondents were not legally justified to reject her candidature on the ground of over age.

5. *Per contra*, Ms. Purnima Maheshwari, learned counsel for respondents, at the very outset, submitted that academic session 2017-18 for engagements of the Guest Teachers is already over and even a part of the next academic year (4 months) has also elapsed. As such, at this stage, the candidature of the applicant for the academic year 2017-18 cannot be considered. Her second argument was that all the appointments to the post of Guest Teacher are to be done in accordance with the relevant recruitment rules. She said that the age relaxation upto 40 years granted to the female candidate by virtue of the 1980 notification is no more valid and only the age relaxation prescribed for different categories by the Govt. would be considered.

6. We have considered the arguments of parties and have also perused the pleadings.

7. From the Annexure A-2 Public Notice, it is noticed that the age limit for TGT Guest Teacher in respect of female candidates is prescribed as 40 years. In view of the specific stipulation in the Public Notice, we do accept the arguments of learned counsel for respondents that the 40 years age limit was not available to the applicant even though she is a female. We are of the firm opinion that in view of this specific stipulation, the applicant ought to have been considered for engagement as TGT Guest Teacher as she was only 37 years old as on the crucial date i.e.

01.07.2018. We have also taken into consideration that the academic session 2017-18 is already over and a part of next academic year. i.e. 2018-19 has also elapsed. Nevertheless, we are of the view that rightful claim of the applicant needs to be considered even at the belated stage.

8. We, therefore, dispose of this OA in the following terms :

(a) The respondents shall consider the applicant for appointment as TGT Guest Teacher (Physical Education) for the current year, if there is any vacancy available, subject to her being found qualified otherwise.

(b) In case, there is no vacancy available, then she should be considered for engagement as Guest Teacher whenever such opportunity arises in the near future.

(S.N. Terdal)
Member (J)

(K.N. Shrivastava)
Member (A)

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