

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

OA No. 060/00758/2016

Date of decision- 31.01.2018

...

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MRS. P. GOPINATH, MEMBER (A)**

...

Anita daughter of Sh. Jagdish Chander resident of 669/875, Gali No. 2, New Prem Colony, Karnal, Haryana-132001. (Age 36 2 months & 25 days)

...APPLICANT

BY ADVOCATE : Mr. D.R. Sharma.

VERSUS

1. Chandigarh Administration, through Finance-Secretary-cum-Secretary, Education Department, U.T, Chandigarh.
2. Director Public Instructions (Schools), Education Department, Chandigarh Administration, Additional Deluxe Building, Sector 9, Chandigarh.

...RESPONDENTS

BY ADVOCATE: Mr. Arvind Moudigl.

ORDER (ORAL)

...

SANJEEV KAUSHIK, MEMBER(J):-

By means of present O.A filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant seeks following relief:-

"i-A. That the impugned Rules Called the Chandigarh Education Service (School Cadre) (Group C) Recruitment Rules, 1991 (Annexure A-13) to the extent in the matter of direct recruitment the age relaxation for five year to the 'woman' has been restricted to the category of (i) Lectures (PGTs), (ii) Head Masters/Head Mistresses, (iii) Masters/Mistresses (TGTs) and (iv) Classical & Vernacular Teachers and the same has not been granted to the category of Nursery Teachers (NTT) to which the applicant belongs. The Rules are arbitrary, unreasonable, discriminatory in nature and unconstitutional as being violative of the rights guaranteed to the petitioners under Article 14 and 16 of the Constitution of India and against the settled principles of law on the validation of Rules. There is absolutely no basis or justification to make

classification between the women and restricting the grant of age relaxation to the women if applying for any particular post and not granting the age relaxation to the women if applying for other post.

ii) That the impugned discrepancy list dated 01.05.2015 (Annexure A-1) and letter 'undated' (Annexure A-2) be quashed and set aside, in the interest of justice,

iii) That the impugned advertisement (Annexure A-3) to the extent it does not include/provide age relaxation to the Nursery Teachers (NTT) be quashed/set aside, in the interest of justice,

iv) The respondents be directed to appoint the applicant to the post of Nursery Teachers (NTT) in terms of her merit position by granting age relaxation of 5 years 1 month 15 days towards working as Guest Teach (Nursery Teacher) in Govt. Schools of Chandigarh as provided in the Advertisement itself and further age relaxation of 5 years towards being 'women' as has been given by the respondent Education Department, Chandigarh Administration from time to time for recruitment not only to the posts of Nursery Teachers (NTT) but also to the posts of Trained Graduate Teachers (TGT) etc (A-8 to A-15) and/or under Rule 6 of the 1991 Rules governing the post in question."

2. After exchange of pleadings, the matter came up for hearing. We have heard learned counsel for the parties.

3. Mr. Arvind Moudgil, learned counsel for the respondents submitted that this petition deserves to be dismissed in view of the ratio laid down by this Court in case of **Meenu & Ors. Vs. Chandigarh Administration & Ors. etc.** (O.A No.060/01027/2014 decided on 14.03.2017) where similar issue has been put to rest by this Court.

4. Mr. D.R. Sharma, learned counsel for the applicant is not in a position to distinguish the above cited judgment.

5. In view of the above, the present O.A is dismissed in terms of the decision rendered in case of Meenu (supra). Relevant para of the said decision reads as under:-

" 21. Considering the aforementioned facts, we are of the considered view that the pose has to be answered in

negative because the Courts cannot issue directions to the respondents to alter their service rules which has been framed under Article 309 of the Constitution, as it is within the domain of the Executive to decide and grant relaxation in age unless it is proved that their action is malafide. They are the best judge. The Court cannot direct the respondent-Government to frame rule in particular fashion. For the sake of repetition, the respondents have able to prove that there is no rule for grant of age relaxation to women candidates of these categories and their action in providing age relaxation earlier point of time was contrary to rule formation. Thus, this Court cannot direct the respondents to act contrary to the rule formation. Accordingly, all the five O.As are dismissed being devoid of merit. These petitions cannot be allowed for another reason because if we accept the prayer made in the O.As for grant of upper age relaxation to women candidates, then it will also be discriminatory for those who did not apply for the post in question by considering them over age in pursuance of advertisement and also that there is no age relaxation, therefore, it will be discriminatory for those who could not apply on this premises only."

6. No costs.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 31.01.2018

`jk'