

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 2292/2013

Reserved on 19.12.2018
Pronounced on 03.01.2019

Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N.Terdal, Member (J)

Vikas Bhardwaj, Age 35-years,
S/o Shri Krishan,
R/o H.No.64, Kavita Colony,
Nangloi, Delhi-41.

... Applicant

(By Advocate: Mr. Sachin Chauhan)

VERSUS

1. Govt. of NCTD,
Through the Chief Secretary,
Nava Sachivalya I.P.Estate,
New Delhi.
2. The Secretary,
DSSSB,
FC-18, Institutional Area,
Karkardooma
(Near Railway Reservation Centre),
New Delhi-110092
3. The Commissioner,
South Zone, M.C.D.
Civic Centre,
Shyama Prasad Mukherjee Marg,
New Delhi.
4. The Commissioner,
North Zone, MCD,
Civic Centre,
Shyama Prasad Mukherjee Marg,
New Delhi.
5. The Commissioner,
Easth Zone, M.C.D.
Udyog Bhawan, Patparganj,
New Delhi.

... Respondents

(By Advocate: Mrs. Pratima Gupta and Mrs. Anupama Bansal for
SDMC)

ORDER**Hon'ble Mr. S.N.Terdal, Member (J):**

We have heard Mr. Sachin Chauhan, counsel for applicant and Mrs. Pratima Gupta and Mrs. Anupama Bansal, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. In this OA, the applicant has prayed for the following reliefs:

“(i) To quash and set aside the order dated 26.2.13 and to further direct the respondent that result of the applicant be declared by DSSSB against the post code of 165/07 with Roll No. 16413056 and further applicant be given the offer appointment to the post of Assistant Teacher/Teacher (Primary) forthwith with all consequential benefit including seniority and promotion and pay & allowances.

Or

(ii) Any other relief which this Hon'ble court deems fit and proper may also be awarded to the applicant.”

3. This is a second round of litigation. The relevant facts of the case are that the applicant was appointed in 2005 as Teacher (Primary) in MCD on contractual basis and he was working as such as contractual teacher w.e.f. 12.09.2005 to 24.12.2005 at MCD Primary school. He had applied for the post of Teacher (Primary) MCD under the post code no.0164-165/07. The examination for filling up the said post was conducted on 15.06.2008 by the DSSSB and the result for the said post code was declared on 25.09.2008. The case of the applicant is that after the issuance of the initial advertisement, by a subsequent notification dated 13.07.2007 the Recruitment Rules (RRs) were amended by reducing the upper age limit to 27 years from the earlier upper age limit of 32 years for male candidates. He was short listed in part-1 examination for UR category. He had obtained 130 marks out

of 200 marks in part-II (Descriptive) examination and he was in zone of consideration in UR category. But, however, when he was called for documents verification and on the scrutiny it was observed that he was over-aged by 9 months 28 days as on the cut off date of 29.10.2007 and he could not be selected. That earlier some similarly situated candidates had approached this Tribunal in OA no. 714/2009 and this Tribunal allowed their OA. In the Writ Petition (Civil) filed by the respondents before the Hon'ble High Court of Delhi in W.P (C) No. 1641/2011 those applicants were given age relaxation as a special case in view of the facts and circumstances of their case and to ameliorate the hardship faced by those applicants having already enrolled as a students in ETE courses and having completed the said course between the year 2006 to 2008.

4. Relying upon the said orders of the Tribunal and the Hon'ble High Court, the applicant filed a OA bearing no.4116/2012 and this Tribunal vide its order dated 6.12.2012 directed the respondents to consider the case of the applicant in the light of the above said orders of the Hon'ble Tribunal in OA No. 714/2009 and W.P (C) No. 1641/2011 and pass a reasoned and speaking order. The relevant portion is extracted below:

"4. In view of the above position, we dispose of this OA at the admission stage itself with the direction to the respondents to consider the case of the applicant in the light of the aforementioned Judgment of this Tribunal in OA No. 714/2009 (Supra) as well as the order of the High Court of Delhi ins WP (C) No. 1641/2011 (supra) and if the applicants case is covered by the aforesaid order of this Tribunal and also by the judgment of the High Court, the applicant shall also be given the same benefits as in the case of the applicant is that OA/WP(C). In case it is not so, he shall be informed about it by way of a reasoned and speaking order. The aforesaid direction shall be complied with, within a period of one month from the date of receipt

of a copy of this order. There shall be no order as to costs.”

5. In compliance with the said order of the Tribunal, the respondents have passed impugned order on 26.02.2013. In the said order, the main reason for rejecting the candidature of the applicant is that the result for the said post was declared on 25.09.2008 vide result notice no. 71 dated 25.09.2008. The applicant had approached the Tribunal after a delay of 4 years and as the records of all the non selected candidates had been weeded out as per the period provided in the Retention Schedule of the respondent Board, as such his case could not be re-examined. As the records are not available because of the long delay, no relief can be considered by the respondent Board.

6. As pointed out in the counter affidavit from the close scrutiny of the orders passed by the Tribunal as well as by the Hon'ble High Court, referred to above and relied upon by the applicant, it is crystal clear that the relief was granted in those cases only in view of the peculiar facts and hardship faced by the applicants in those cases. In our opinion, in view of the peculiar facts of this case narrated in the impugned speaking order, we do not find any lacuna in the impugned speaking order dated 26.02.2013.

7. Accordingly, OA is dismissed. No order as to costs.

(S.N.Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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