

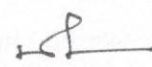
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CENTRAL ADMINISTRATIVE TRIBUNAL**MADRAS BENCH****DATED THIS 7th DAY OF AUGUST, TWO THOUSAND NINETEEN****PRESENT:****HON'BLE MR. P. MADHAVAN, MEMBER (J)****&****HON'BLE MR. T. JACOB, MEMBER (A)****OA.310/01419/2013****L. Sarala****No. 32, Bajana Madam Street****Manjini Nagar, Muthialpet****Puducherry – 605 003.Applicant****By Advocate M/s. Giridhar & Sai****Vs**

1. Union of India, rep. by the
Secretary to Government, Education Department
Government of Puducherry
Chief Secretariat, Puducherry.

2. Under Secretary to the Government (Education)
Government of Puducherry
Chief Secretariat, Puducherry.

3. Director of School Education
Directorate of School Education
Government of Puducherry
Puducherry. ... Respondents

By Advocate Mr. R. Syed Mustafa

7.5

ORDER

(Pronounced by Hon'ble Mr. T. Jacob, Member (A))

This OA has been filed by the applicant under Sec.19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

- "i. To direct the respondents to consider and appoint the applicant to the post of PST with arrears of pay and allowances and all other consequential benefits;
- ii. to award costs, and pass such further and other orders as may be deemed and proper and thus render justice."

2. The brief facts of the case as submitted by the applicant are as under:

The applicant has done her Higher Secondary and has obtained Diploma in Teachers Education in the year 2008. She has registered herself with the Employment Exchange during the year 1996. She is presently working as Junior Assistant in PADCL which is a Government of Puducherry undertaking on purely temporary and adhoc basis. She has also passed Teachers Eligibility Test (TET) during the year 2012. She is a native of Puducherry and belongs to MBC category. It is submitted that a Notification for recruitment to the post of Primary School Teacher (PST) was issued on 05.09.2013 in the pay band of Rs. 9300-34800/- with grade pay of Rs. 4200/-. The number of vacancies advertised in Puducherry and Karaikal region is 150. The age limit prescribed in the Notification is between 18 to 32 years as on 04.10.2013 which is the last date for receipt of applications and the age limit is relaxable for MBC and



other categories. The applicant being a MBC candidate, is entitled for age relaxation for a period of three years as per the relevant Government instructions, her date of birth being 27.09.1978. As on 04.10.2013 the age of the applicant is 35 years and 7 days. The applicant fulfils the education qualification as prescribed in the Notification. It is also pertinent to state that very few candidates including the applicant has passed TET in Puducherry region and certificates have not been issued by the Teachers Recruitment Board, Government of Tamil Nadu, Chennai. The applicant applied for the post of PST on 16.09.2013 through proper channel. She submitted representation dated 20.09.2013 to the Lieutenant Governor seeking grant of age relaxation for 7 days and to appoint her to the post of PST. It is submitted that as per the Recruitment Rules of the PST the crucial date for determining the age limit shall be the closing date for receipt of applications and in case of recruitment made through the Employment Exchange, the crucial date for determining the age limit, shall, in each case, be the last date up to which the Employment Exchanges are asked to submit the names. It is necessary to state that the applicant has passed her TET during 2012 itself but certificate has not been issued till date. The Employment Exchange has sponsored the names of eligible candidates as on 07.09.2013 and has failed to sponsor the name of the applicant although she has passed TET on the ground that certificates has not been issued. The applicant has reliably learnt that the Employment Exchange has sponsored names of the candidates pursuant to the notification on 20.09.2013 and as on the date of the sponsor, the applicant is well within the age limit. Hence she cannot be denied appointment to the post of PST.



Also vide GO Ms No. 22/92, dated 28.08.1992 additional age benefit of 5 years to the special categories of over aged candidates if sponsored by Employment Exchange was allowed. For in service candidates also, age relaxation up to 40 years is granted. It is submitted that the applicant is also entitled for relaxation of age which is only 6 days as she is duly qualified for appointment to the post of PST. Hence the applicant has filed this OA seeking the above reliefs on the following grounds:

- i. The failure of the respondents to consider the applicant for appointment to the post of PST is arbitrary and unreasonable and violative of Article 14, 16 and 21 of the Indian Constitution.
 - ii. The applicant is entitled for relaxation of age which is only 7 days as she is duly qualified for appointment to the post of PST.
 - iii. The applicant has passed her TET during the year 2012 itself but certificate has not been issued till date. The Employment Exchange has sponsored the names of eligible candidates as on 07.09.2013 and has failed to sponsor the name of the applicant although she has passed TET on the ground that certificates has not been issued. The applicant cannot be made to suffer due to administrative lapses on the part of the respondents.
3. Per contra the respondents in their reply statement have stated that the Department of School Education had notified 171 vacancies in the cadre of Primary School Teachers in Puducherry, Karaikal, Mahe and Yanam regions in the local dailies on 05.09.2013. The details of vacancies, reservations made, qualifications and method of selection etc., were notified in the official website of the Department from 12.09.2013 onwards. The last date of receipt of applications was 04.10.2013. Out of 171 vacancies notified, 150 vacancies were in Puducherry and Karaikal regions., As



per the Recruitment Rules for the post of Primary School Teacher, the age limit prescribed for direct recruits is between 18 to 32 years. Relaxation for reserved and special category of persons is admissible in accordance with the instructions of Government on the subject. In case of recruitment made through the Employment Exchange, the crucial date for determining the age limit, shall in each case, be the last date up to which the Employment Exchanges are asked to submit the names. The applicant belongs to Most Backward Class community in the Union Territory of Puducherry. The applicant is eligible for age relaxation upto 3 years as per the extant orders notified vide GO.Ms.No.45 dated 30.04.2012 of the Department of Personnel and Administrative Reforms (Personnel Wing), Government of Puducherry. The applicant crossed the age of 35 years as on the closing date for receipt of application on 04.10.2013 having been born on 27.09.1978. Further the respondents would submit that no over-aged candidate was selected and all the candidates were within the prescribed age limit only. In fact, no relaxation, either age or educational qualifications, was given to any candidate and all the selected candidates fulfilled all the conditions prescribed in the Notification. Hence the question of discrimination in the case of the applicant herein does not arise at all. Hence the applicant is not eligible for appointment to the post of Primary School Teacher and accordingly the respondents pray for dismissal of the OA.

4. Heard the learned counsel for the respective parties and perused the pleadings and documents on record.



5. Admittedly the applicant in pursuance of the Notification for filling up 171 vacancies in the cadre of Primary School Teacher in Puducherry, Karaikal, Mahe and Yanam applied for the said post, she being eligible in terms of educational qualification etc., but she did not fulfil the age limit as stipulated in the Notification. According to the Recruitment Rules for the said post as notified in G.O.Ms.136 dated 11.11.2003, the age limit for direct recruits reads as follows:-

“Between 18 and 32 years (Age relaxation for reserved and special category of persons shall be admissible in accordance with the orders or instruction issued by the Government from time to time)

Note: The crucial date for determining the age limit shall be the closing date for receipt of applications.

In case of recruitment made through the Employment Exchange the crucial date for determining the age limit shall, in each case, be the last date upto which the Employment Exchanges are asked to submit the names.”

6. The applicant belongs to Vanniar community which is recognised as a Most Backward Class in the Union Territory of Puducherry. As per the extant order notified under G.O.Ms.No.45 dated 30.04.2012 of the Department of Personnel and Administrative Reforms (Personnel Wing), Government of Puducherry, the applicant is eligible for age relaxation upto 3 years. On perusal of the records, it could be seen that the applicant was born on 27.09.1978. Her age as on 04.10.2013 as on the last date for receipt of applications was 35 years, 0 months and 8 days. The applicant admittedly had crossed the age limit of 35 years on the closing date for receipt of applications by 8 days.



7. The applicant has relied upon the G.O.Ms.No.22 dated 28.08.1992 issued by the Labour Department extending the additional age limit of five years. The said additional benefit is not applicable to the Most Backward Class category and is applicable only to the special categories of candidates like Scheduled castes/ Physically Handicapped/ Ex-servicemen/ Divorced women. Thus, this argument cannot hold good.

8. The applicant states that those candidates sponsored through Employment Exchange have been considered for appointment under relaxed age conditions ignoring her claim. Admittedly vide Ground iii of the OA, the applicant herself has stated that her name has not been sponsored by the Employment Exchange.

9. Again, any relaxation of the age limit in respect of serving candidates is available only if they are employed on regular basis. It is seen on perusal of records that the applicant though working as Junior Assistant in Puducherry Adi Dravidar Development Corporation Limited, a Government of Puducherry Undertaking, the character of employment is one of purely temporary and adhoc basis which does not fall under the category of Government servant. Hence her claim on this count lacks merit.

10. The applicant also submitted that she is over aged only by 8 days which could be condoned. When a cut off date is prescribed for age limit, the same has to be scrupulously followed. It has been held by the Apex Court in the case of **Amrit Lal Bhat vs State of Rajasthan (1997) 6 SCC 614** as follows:-



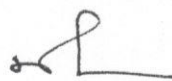
5. Basically, the fixing of a cut-off date for determining the maximum or minimum age required for a post, is in the discretion of the rule-making authority or the employer as the case may be. One must accept that such a cut-off date cannot be fixed with any mathematical precision and in such a manner as would avoid hardship in all conceivable cases. As soon as a cut-off date is fixed there will be some persons who fall on the right side of the cut-off date and some persons who will fall on the wrong side of the cut-off date. That cannot make the cut-off date, per se, arbitrary unless the cut-off date is so wide off the mark as to make it wholly unreasonable. This view was expressed by this Court in *Union of India v. Parameswaran Match Works* and has been reiterated in subsequent cases.

11. The Hon'ble Supreme Court in the case of *Union of India vs. Shivbatchan Rai* (2001 (9) SCC 356 : 2001 (7) SLR 595) has held as under:

“Prescribing any age limit for a given post, as also deciding the extent to which any relaxation can be given if an age limit is prescribed, are essentially matters of policy. It is therefore, open to the Government while framing rules under the proviso to Article 309 of the Constitution to prescribe such age limits or to prescribe the extent to which any relaxation can be given. Prescription of such limit or the extent of relaxation to be given, cannot be termed as arbitrary or unreasonable.”

12. The contention that the applicant has been denied the fundamental right under Art. 16 of the Constitution is also not tenable in as much as no candidate beyond the age limit prescribed as similar to that of the applicant has been given any age relaxation and appointed. Hence the applicant cannot claim age relaxation as a matter of right when no relaxation has been granted to any of the selected candidates.

13. In view of what has been stated above we find no reason to interfere with the policy decision of the Government in terms of relaxation of age as on the crucial date,



the applicant did not fulfil the age condition for becoming eligible for appointment to the post of Primary School Teacher.

14. In the result, the OA is liable to be dismissed and is accordingly dismissed. No order as to costs.