

Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.3103/2019

Monday, this the 21st day of October 2019

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)

Sushma Gupta, age 37 years
Group B, Non Gazetted
NTT (Asstt. Teacher Nursery)
D/o Mamchand
r/o A 85-86, Rama Park, Uttam Nagar
Delhi – 110 059
Post Code 88/17, NTT (Asstt. Teacher Nursery)
Category General
Presently working at SKV Matiala, Delhi
Teacher ID 201178086

..Applicant

(Mr. Tarun Kumar, Advocate)

Versus

1. Chief Secretary
Govt. of NCT of Delhi
New Secretariat Building, ITO
New Delhi – 110 054
2. The Director
Directorate of Education
Govt. of NCT of Delhi
Old Secretariat, Delhi – 110 054
3. The Lt. Governor
Raj Niwas, 1 Raj Niwas Marg
Delhi – 110 054
4. The Chairman
Delhi Subordinate Services Selection Board (DSSSB)
Govt. of NCT of Delhi
FC-18, Institutional Area, Karkardooma
Delhi 110 092

..Respondents

(Ms. Esha Majumdar, Advocate)

O R D E R (ORAL)**Justice L. Narasimha Reddy:**

The applicant responded to Advertisement No.04/17 dated 20.12.2017 in respect of post of Assistant Teacher (Nursery), with Post Code 88/17. Earlier, the applicant and many others filed O.A. No.484/2018 & batch, raising several issues in relation to that examination. That batch was disposed of on 23.10.2018 permitting the respondents to declare the results and leaving it open to the applicants therein, to submit representation, in case they are not selected.

2. The applicant was not selected, though she secured fairly good marks, which otherwise would have led to her selection. She was denied selection on the ground that she was over-aged by 5 months. She was issued a notice dated 03.06.2019 informing that she is over-age by 5 months and in case she has any explanation or representation to be made with reference to age, she can make it within 15 days. This O.A. is filed challenging the said notice. Direction is sought to the respondents, to declare the applicant as fit to be appointed as teacher.

3. It is stated that the applicant is working as Guest Teacher and she is entitled to be extended the relief of relaxation, as provided to various categories, and if of any reason that is not possible, the respondents are supposed to exercise the power under Rule 5 of the Recruitment Rules issued on 15.06.2011.

4. We heard Mr. Tarun Kumar, learned counsel for applicant and Ms. Esha Majumdar, learned counsel for respondents, at the stage of admission.

5. This is the second round of litigation for the applicant. Earlier, she was part of group of persons, who filed batch of O.As. by raising several issues. The batch was disposed of 23.10.2018. Ultimately, the respondents declared the results.

6. The age limit stipulated under the Advertisement is, 30 years. The age of the applicant as on the last date was 35 years, 05 months. Therefore, she was not considered for selection, though she secured fairly good marks. The Advertisement itself provided for relaxation of age limit, in favour of certain categories of candidates, such as SC/ST/OBC, physically handicapped, departmental candidates, meritorious sports persons, ex-servicemen (non-gazetted), disabled Defence Services personnel (Group C) and widows/divorced women/women judicially separated and who are not re-married, etc. The applicant does not fit in any one of them.

7. The applicant relies upon the memo dated 01.11.1980 issued by the Delhi Administration, providing for relaxation to the extent of 10 years in case of women candidates. The benefit thereunder could have been extended, if only the memo is still in force. The Hon'ble High Court of Delhi, in **Raj Bala & another v. Govt. of NCT of Delhi & others** (W.P. (C) No.7240/2017) decided on 23.08.2017, held that once the Recruitment Rules are framed for the service, the memo dated 01.11.1980 has no application.

8. Learned counsel for applicant placed reliance upon the judgment of Hon'ble High Court of Delhi in **Syed Mehedi v. Govt. of NCT of Delhi & others** (W.P. (C) No.1200/2016) dated 02.07.2019. That was a case pertaining to the post of Special Education Teacher. The post was created on the basis of the directions issued by the High Court. It emerged that in spite of repeated exercises, the adequate candidates were not available and those, who were found qualified, had crossed the age limit. Taking those special circumstances into account, the Hon'ble High Court directed that as a one-time measure, the benefit of relaxation of age for candidates for appointment to the post of Special Education Teacher to be extended for male candidates, on par with female candidates. Such is not the case here.

9. We do not find any merit in this O.A. It is accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

September 24, 2019

/sunil/

