



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

**O.A. No.359/2023**

Reserved on: 14.02.2023  
Pronounced on: 17.02.2023

**Hon'ble Mr. Anand Mathur, Member (A)  
Hon'ble Mr. Manish Garg, Member (J)**

Vatan Deep

Versus

Union Public Service Commission (UPSC) & Anr.

Appearance: Mr. Anuj Agarwal, learned counsel for the applicants.

Mr. R.V. Sinha with Mr. A.S. Singh for R-1.  
Ms. Aanchal Anand for Mr. Amit Anand for R-2.

**ORDER (ON INTERIM RELIEF)**

**By Hon'ble Mr. Anand Mathur, Member (A):**

Learned counsel for the applicant contended that the applicant's candidature to the post of Principal has been rejected on the ground that he does not possess the prescribed experience of ten years. He further contended that though the applicant was working as Guest Teacher/contractual employee with the respondents for the last 12 years continuously, but they have not accepted this as valid experience since he was working in the capacity of



Guest Teacher/contractual employee. He further stated that the recruitment rules do not make any distinction between a 'Regular Teacher' and 'Guest Teacher/contractual employee'.

2. To buttress his arguments, he also drew our attention to the decision of Hon'ble Supreme Court in **Union Public Service Commission v. Dr. Jamuna Kurup & Ors.** [AIR 2008 (SC) 2463], relevant portion whereof reads as under:-

*"13. The term 'employee' is not defined in the Delhi Municipal Corporation Act, 1957. Nor is it defined in the advertisement of UPSC. The ordinary meaning of 'employee' is any person employed on salary or wage by an employer. When there is a contract of employment, the person employed is the employee and the person employing is the employer. In the absence of any restrictive definition, the word 'employee' would include both permanent or temporary, regular or short term, contractual or ad hoc. Therefore, all persons employed by MCD whether permanent or contractual will be 'employees of MCD'. The respondents who were appointed on contract basis initially for a period of six months, extended thereafter from time to time for further periods of six months each, were therefore, employees of MCD, and consequently, entitled to the benefit of age relaxation. If the intention of MCD and UPSC was to extent the age relaxation only to permanent employees, the advertisement would have stated that age relaxation would be extended only to permanent or regular employees of MCD or that the age relaxation would be extended to employees of MCD other than contract or temporary employees. The fact that the term 'employees of MCD' is no way restricted, makes it clear that the intention was to include all employees including contractual employees. Therefore, we find no reason to interfere with the judgment of the High Court extending the benefit of age relaxation."*

3. Learned counsel also relied upon the interim order dated 19.01.2023 passed by a coordinate Bench of this



Tribunal in an identical matter in **Saroj Devi Meena vs. Union Public Service Commission** [OA No.173/2023], which reads as under:-

*“In the above circumstances, we issue notice to the respondents. Notice is made returnable after four weeks. Mr. R.V. Sinha and Mr. Girish C. Jha, learned counsels accept notice on behalf of Respondent No.1 and Respondents No.2 and 3, respectively.*

*Since the interview for the post of Principal is scheduled to be held from 30.01.2023, as an interim measure, we direct the respondents to allow the applicants to participate provisionally in the interview process, after verifying that the applicants possess 10 years of qualifying experience as on 29.07.2021. Needless to mention, the result of the applicants in the interview process shall be subject to final outcome of the O.A.”*

4. *Per contra*, learned counsel for the respondents stated that it is very clearly written in the Advertisement Notification that ten years’ experience of teaching is required from a recognized High School/Higher Secondary School/ Senior Secondary School/Intermediate College, and there is no mention of any experience on contractual basis. He also stated that as per the Recruitment Rules issued vide Notification dated 10.01.2019, the post of Principal is to be filled up 50% by promotion and 50% by direct recruitment. For promotion quota vacancies, regular service of ten years is required and as a corollary ten years’ experience is required for direct recruits also. He also drew

our attention to the specific mention to NOTE-II of the Examination Notice, which reads as under:-



**“NOTE II: The period of experience rendered by a candidate on part time basis, daily wages, visiting/guest faculty will not be counted while calculating the valid experience for short listing the candidates for interview.”**

5. In support of his arguments, learned counsel for the respondents relied upon the following decisions:-

- i) Ashok Kumar & Anr. vs. State of Bihar & Ors. [2017 (4) SCC 357]
- ii) Ajay Kumar Yadav & Anr. vs. State of UP & Ors. [2022 SCC Online All 547]
- iii) Union Public Service Commission vs. Girish Jayanti Lal Vaghela & Ors. [2006 (2) SCC 482]
- iv) Union Public Service Commission vs. Dr. Pankaj Kumar & Ors. [Appeal (Civil) No.1488-1491 of 2008 decided on 21.02.2008]
- v) Bedanga Talukdar vs. Saifudaullah Khan & Ors. [2011 (12) SCC 85]
- vi) State of Tamil Nadu & Ors. vs. G. Hemalathaa & Anr. [2019 SCC Online SC 1113]
- vii) Dr. M. Vennila vs. Tamil Nadu Public Service Commission [2006 (3) CTC 449]
- viii) Dr. Anandamoy Ghosh vs. UOI & Ors. [2014 SCC Online Cal 21543]
- ix) Secretary, Union Public Service Commission & Anr. vs. S.Krishna Chaitanaya [2011 (14) SCC 227]
- x) Zonal Manager, Bank of India, Zonal office, Kochi & Ors. [2019 (8) SCC 587].



6. On hearing learned counsels for both the parties and perusing the decision taken by a coordinate Bench of this Tribunal in **Saroj Devi Meena's** case (supra), we find that the applicant deserves a similar relief otherwise he would suffer an irreparable loss.

7. In view of the above, since the process of interview for the post of Principal is going on w.e.f. 30.01.2023, as an interim measure, we direct the respondents to allow the applicant to participate provisionally in the interview process on any date under intimation to him, taking into consideration that he possesses 10 years of experience as on 29.07.2021, validity of which will be decided at the time of final decision in the OA. Needless to mention, the result of the applicant in the interview process shall be subject to final outcome of the O.A.

List the main OA for hearing on 08.05.2023.

**(Manish Garg)**  
**Member (J)**

**(Anand Mathur)**  
**Member (A)**

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