



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

O.A. No.1394/2021
With
O.A. No.1406/2021
O.A. No.1368/2021
O.A. No.3724/2022
O.A. No.173/2023

Monday, this the 15th day of May, 2023

**Hon'ble Mr. Justice Ranjit More, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

O.A. No.1394/2021

1. Satish Anand
Aged about 43 years,
S/o Sh. R. P. Gupta
R/o O-1/71-A, Budh Vihar, Phase-1, Delhi- 110086
Mob. No. 9212426475
Post: Principal
Post Code: 07/21
Group: A
2. Pankai Kumar Sachdeva
Aged about 46 years,
S/o Sh. Baldev Rai Sachdeva
R/o X-3298, Street No. 3, Raghubar Pura No.2, Gandhi
Nagar,
Delhi-110031
Mob. No. 9818263015
Post: Principal
Post Code: 07/21
Group: A
3. Mohd. Murslin
Aged about 42 years,
S/o Sh. Mohd. Yamin
R/o A-147, Budh Vihar, Shyam Colony Phase-2, Delhi-
110099

Item No.31



Mob. No. 9911127331
Post: Principal
Post Code: 07/21
Group: A

4. Madan Mohan Maurya
Aged about 40 years,
S/o Sh. Ram Saran Maurya
R/o C-10/16, Dayal Pur, Delhi-110044
Mob. No. 9013464548
Post: Principal
Post Code: 07/21
Group: A

5. Neelam Rani
Aged about 43 years,
D/o Sh. Babu Ram
R/o D-730/54, Gali No. 13, Ashok Nagar, Shahdara,
Delhi-110093
Mob. No. 7678238308
Post: Principal
Post Code: 07/21
Group: A

6. Akhilesh Kumar Sharma
Aged about 40 years,
S/ Sh. Janesh Kumar Sharma
R/o C-1802, 18 Floor, VVIP Homes, Sector-16 C, Gaur
City-2, Greater Noida (West), Uttar Pradesh
Mob. No. 9968273043
Post: Principal
Post Code: 07/21
Group: A

7. Kapil Dev
Aged about 40 years,
S/o Sh. Fathe Singh
R/o M-503, Amar Colony, East Goal Pur, Delhi-110094
Mob. No. 9891984927
Post: Principal
Post Code: 07/21
Group: A

Item No.31



8. Anita Verma
Aged about 39 years,
W/o Sh. Sohan Lal
R/o B-91/183, Rohan Vihar Colony, Najafgarh, New
Delhi-
110043
Mob. No. 9968233580
Post: Principal
Post Code: 07/21
Group: A

9. Manoj Kumar
Aged about 41 years,
S/o Sh. Rampal Singh
R/o H. No. 2060, Street No. 57, Block-E, Near Green
Land Public School, Molar Band Ext. Badarpur Border,
Delhi-
110044
Mob. No. 9711552177
Post: Principal
Post Code: 07/21
Group: A

10. Amit Mathur
Aged about 39 years,
S/o Sh. D. S. Mathur
R/O RZ-64, R-Block, New Roshan Pura, Najafgarh,
New Delhi-110043
Mob. No. 8076477876
Post: Principal
Post Code: 07/21
Group: A

11. Harish Chandra Sharma
Aged about 37 years,
S/o Sh. Vijay Kumar Sharma
R/o N-228, Raghubir Nagar, New Delhi-110027
Mob. No. 9990663922
Post: Principal
Post Code: 07/21
Group: A

Item No.31



12. Dishu Bhandari
Aged about 37 years,
S/o Sh. Satpal
R/o H. No. 54, 2nd Floor, Pocket- 9, Sector-2, Rohini,
Delhi
110086
Mob. No. 8377078150
Post: Principal
Post Code: 07/21
Group: A

13. Dr. Pankaj Kumar
Aged about 36 years,
S/o Sh. Sri Krishna
R/o 121-A, J & K Pocket, Dilshad Garden, Delhi-110095
Mob. No. 8178320885
Post: Principal
Post Code: 07/21
Group: A

14. Kailash Nagar
Aged about 43 years,
S/o Sh. Jeevraj
R/o 97, Ground Floor, Pocket-9, Sector-21, Rohini,
Delhi-
110086
Mob. No. 885468910
Post: Principal
Post Code: 07/21
Group: A

15. Manoj Kumar
Aged about 43 years,
S/o Sh. Sita Ram
R/o F-352, Gali No.6, Ganga Vihar, Delhi-110094
Mob. No. 9013434583
Post: Principal
Post Code: 07/21
Group: A

....Applicants

Versus



1. Union Public Service Commission (UPSC)
Through its Chairman
UPSC Bhavan, Shahjahan Road,
UPSC, Man Singh Road Area, New Delhi-110069
2. Directorate of Education,
The Director of Education
Govt. of NCT of Delhi
Old Secretariat Building,
Civil Lines, Delhi-110054
3. Govt. of NCT of Delhi
Through its Chief Secretary,
Delhi Secretariat, I. P. Estate,
New Delhi-110002

...Respondents

OA No. 1406/2021 (Amended)

1. Naveen Jangid
s/o Ram Niwas Sharma
Aged about 36 years
R/o-929A/22, Shiv Nagar,
Gurgaon, Haryana-122001
Posted as TGT (SKT)
GBSSS, Mahipalpur, N.D-37
Mob.No.8285186237
Sub: Appointment, Group 'A'
2. Ram Gopal Fagodia
S/o Rameshwar Lal Fagodia
Aged about 36 years
R/o M-29, Near Hanuman Mandir
Ladosarai, New Delhi-110030
Posted as TGT-SKT
GBSS No.2, Khanpur, New Delhi-80
Sub: Appointment, Group 'A'
3. Yogendra Singh
S/o Durga Singh



Aged about-40 years
R/ G-636/A, Sangam Vihar, (Near Bear Bazar)
Posted as TGT (Hindi)
GBSSS, C-Block, Sangam Vihar
New Delhi-110062
Sub: Appointment, Group 'A'

4. Ram Niwas Geela
S/o Rugga Ram Geela
Aged about 36 years
R/o-442, Pocket-GH-3
sector-28, Rohini-110042
Posted as TGT (Hindi)
GBSSS, Padam Nagar
Delhi-110007
Sub: Appointment, Group 'A'
5. Naval Kishore
S/o Dharam Paul
Aged about 38 years
R/o 443, Pocket-GH-3
Sector-28, Rohini, Delhi-110042
Posted as TGT (Punjabi)
GBSSS Padam Nagar
Delhi-110007
Sub: Appointment, Group 'A'
6. Santosh Kumar Yadav
S/o Ram Kesh
Aged about 36 years
R/o YC 300 NTPC Society
Greater Noida, Gautam Buddh Nagar
U.P-201308
Posted as TGT (Hindi) Rajkiya Sarvodaya
Bal Vidyalaya, Gulabi Bagh, Delhi-11007,
Sub: Appointment, Group 'A'
7. Rajeev Kumar Tiwari
S/o Kailash Chandra Tiwari
Aged about 37 years
R/o GA-102/IA Pul Prahladpur
Distt.South East, N.D-110044
Posted as TGT (Hindi)



SBV, Rly Colony Tuglakabad
New Delhi-110044
Sub: Appointment, Group 'A'

8. Harish Agrawal
S/o Pradeep Agrawal
Aged about 38 years
R/o C2C Pocket-2
Flat No. 148 2nd Floor,
Opposite Orchid Hospital-58
Posted as TGT (Skt.)
GBSSS 2nd Shift Naraina Vihar
New Delhi-110028
Sub: Appointment, Group 'A'

9. Reeta Singh
W/o Mohit
S/o Krishna Pal (Father's Name)
Aged about 38 years
R/o H.No.72, Block-B
Ramgarh Near Jahangir Puri
Metro Station Delhi-110033
Posted as TGT (Hindi),
SKV No.I, Model Town III,
Delhi-110009
Sub: Appointment, Group 'A'

10. Sonia
W/o Pradeep Kumar
Aged about 36 years
R/o B-305, DDA MIG Flats
East of Loni Road, Delhi-93
Posted as TGT (Maths)
SKV Gokalpuri, Delhi-94
Sub: Appointment, Group 'A'

...Applicants

Versus

1. Union Public Service Commission,
Through the Secretary, Dholpur
House, Shahjahan Road, New Delhi-69



2. The Govt. of Delhi
Through the Principal Secretary
Department of Education,
Old Secretariat, Delhi-54

3. Director of Education
Govt. of NCT, Delhi,
At Old Secretariat, Delhi-54.

...Respondents

O.A. No.1368/2021 (Amended)

1. Chandan Singh
S/o Raghubir Singh
Aged about 44 years
R/o-E-28, Street No.2
E-Block, Roshan Vihar, Phase-II
Nazafgarh, New Delhi-43
Presently posted as TGT (ENG)
GBSSS No. 1 Sagarpur, N.D.-46
Mob.9212477600
Sub: Appointment
Group 'B'

2. Raj Kapoor
S/o Neki Ram
Aged about 42 years
R/o H. No.-940/12
Raj Nagar-II, Palam Colony, N.D-77
PGT, Hindi, Govt. Co-Ed.
Senior Secondary School
Sector-6, Dwarka, N.D-75
Sub: Appointment, Group 'B'

3. Praveen Kumar
S/o Rattan Lal
Aged about-41 years
R/o C-172, Gali No. 14/4, Sadhnagar
Presently posted as PGT (Eng)



GSBV Rouse Avenue,
New Delhi-02
Sub: Appointment, Group 'B'

4. Satya Pal
S/o Om Prakash
Aged about 46 years
R/o-RZF-431, Gautam Budh Marg
Raj Nagar-II, N.D-77
Posted as TGT (Hindi)
GBSSS Raj Nagar-Ist-New Delhi-45
Sub: Appointment, Group 'B'

5. Ravinder Singh
S/o Bhagwan Singh Saini
Aged about 42 years
R/o RZ-88, Palam Vihar
Sector-6, Dwarka, N.D-75
Posted as PGT commerce
GBSSS Hastal, New Delhi-59
Sub: Appointment, Group 'B'

6. Kamal Kumar
S/o Brii Lal
Aged about 42 years
B-64, V.P.O-Chhawla New Delhi-71
TGT (Hindi), GBSSS Goela Khurd
Sub: Appointment, Group 'B'

7. Chandra Kant Sharma
S/o Natthi Lal Tiwari
Aged about 32 years
R/O RZ-34/11, UGF, Tughlakabad
Ext. New Delhi-19
TGT (SKT), GBSSS No.3,
Tughlaqabad, Ext. New Delhi-19
Sub: Appointment, Group 'B'

8. Gaurav Kumar
S/o Deep Chand
Aged about 41 years
R/o B1B1003, Samridhi Apartment
Sector-18B, Dwarka, New Delhi-78

Item No.31



PGT, GBSSS No.2, Sagarpur, N.D-42
Sub: Appointment, Group 'B'

9. Vishal Sharma
S/o D.P.K. Sharma
Aged about 41 years
R/o J75/3, Dilshad Colony
Delhi-95
TGT (Eng), GBSSS, C-Block,
Dilshad Garden, Delhi-95
Sub: Appointment, Group 'B'

10. Sanyogita
D/o Yashpal Singh Sehrawat
W/o Anesh Siwach
Aged about 42 years
H.No.61/62, Sector-7, Rohini, Delhi-85
PGT, Hindi RCS KV, D-Block, Jehangirpuri,
New Delhi-33
Sub: Appointment, Group 'B'

11. Shiv Prakash Mishra
S/o Shyam Sundar Mishra
Aged about 43 years
R/o 1641/1, sector-5,
Vasundhara, Ghaziabad,
U.P-201012
Presently working as
PGT, SBV, Anand Vihar,
New Delhi-110092
Sub: Appointment
Group 'B'

12. Parveen Kapoor
S/o Kishan Lal Kapoor
Aged about 42 years
R/o-G-2/1A, street No.28
Rajapuri, Uttam Nagar,
New Delhi-59, TGT (Hindi)
SBV No.2, Tilak Nagar, N.D-18
Sub: Appointment
Group 'B'

Item No.31



13. Vinod Kumar
S/o Khushi Ram
Aged about 39 years
R/o J-138, Old Roshanpura
Najafgarh, New Delhi-43
PGT (Hindi) SBV, Ashok Nagar,
New Delhi-27
Sub: Appointment
Group 'B'

14. Sandeep Kr. Gautam
S/o Jagbeer Singh
Aged about 41 years
R/o 33 Gram Sabha plot
Behind Buddha Sthal
Pralhadpur Bangar, Delhi-42
PGT (Pol. Sc.) SBV, Y-Block, Mangolpuri,
Delhi-83
Sub: Appointment
Group 'B'

15. Vikas Kaushal
S/o Ved Prakash Kaushal
Aged about 43 years
R/o H.No.-173, FF, Pocket-11
Sector-24, Rohini, Delhi-85
T.G.T, N.SC. GBSSS,
Pooth Khurd, Delhi-39
Sub: Appointment
Group 'B'

16. Pushender Singh
S/o Sukhram Sehwat
Aged about -42 years
R/o 16A, Block (C) Roshan Vihar,
Part-II, Nazafgarh, New Delhi-43
TGT, SBV, Deendarpur, New Delhi-43
Sub: Appointment
Group 'B'

17. Pawan Kumar
S/o Ayodhya Prasad
Aged about 45 years

Item No.31



R/o 31A, K-Block, Gandhi Market
West Sagarpur, Delhi-46
Presently posted as
PGT (History)
RPBV, Sector-19, Dwarka
New Delhi-78
Sub: Appointment
Group 'B'

18. Anil Arora
S/o Shyam Lal
Aged about 45 years
R/o H-55, IInd Floor
Bali Nagar, New Delhi-15
Presently posted as TGT,
Social Science, SBV,
Subhash Nagar, New Delhi-27
Sub: Appointment
Group 'B'

19. Deepak Kr. Mishra
S/o Badri Pd. Mishra
Aged about 36 years,
R/o H.No.418, B-Block,
Pkt.-4, Sector-08
Rohini, New Delhi-85
Presently posted as
TGT Sanskrit, Sarvodaya Vidyalava
Sector-6, Rohini, New Delhi-85
Sub: Appointment
Group 'B'

20. Sunil Bhadana
S/o Horam Singh
Aged about 47 years
R/o vill-Pawta, Post-Pali
Distt.-Faridabad (Haryana)- 121102
Presently posted as PGT (Pol. Sc.)
Govt. Co-ed. Sr. Sec. School
Bhatti Mines, New Delhi-74

...Applicants

Versus



1. Union Public Service Commission,
Through the Secretary, Dholpur
House, Shahjahan Road, New Delhi-69

2. The Govt. of Delhi
Through the Principal Secretary
Department of Education,
Old Secretariat, Delhi-54

3. Director of Education
Govt. of NCT, Delhi,
At Old Secretariat, Delhi-54

...Respondents

O.A. No.3724/2022

1. Kailash Prasad
S/o Ramhet Lal Khateek
Aged about 44 years
R/o 197, Saheed Bhagat Singh Aptt.
Pkt-3, Sector-14, Dwarka, N.D-78
Mobile No. 9968568271
Sub: Appointment
Group- 'A',

...Applicant

Versus

1. Union Public Service Commission,
Through the Secretary, Dholpur
House, Shahjahan Road, New Delhi-69

2. The Govt. of Delhi
Through the Principal Secretary
Department of Education,
Old Secretariat, Delhi-54

3. Director of Education
Govt. of NCT, Delhi,
At Old Secretariat, Delhi-54

...Respondents



O.A. No.173/2023

1. Saroj Devi Meena
D/o Narayan Meena
W/o Ram Kesh Meena
Aged about 34 years
R/o Flat No. 343
Metro View Apartment
Pocket-'B' Phase-2, Sector-13,
Dwarka, New Delhi-78
Mobile No. 9818244615
Sub: Appointment
Group-'A'
2. Anjali Bhaskar
D/o- Ganga Saran
Aged about 41 years
R/o-257 3A Rachna Vaaishali
Sector-3, Ghaziabad, U.P-201010
Sub: Appointment
Group-'A'
3. Brijesh Kumar
S/o Ram Sahai
Aged about 40 years,
R/o B-5, Block-31 Extn
Trilokpuri, Delhi-91
Sub: Appointment
Group-'A'
4. Seema
D/o Ramesh Chand
Aged about 39 years
R/o H-49/A, Jai Prakash Nagar
Ghonda, Delhi-53
Sub: Appointment
Group-'A'

...Applicants

Versus



1. Union Public Service Commission,
Through the Secretary, Dholpur
House, Shahjahan Road, New Delhi-69

2. The Govt. of Delhi
Through the Principal Secretary
Department of Education,
Old Secretariat, Delhi-54

3. Director of Education
Govt. of NCT, Delhi,
At Old Secretariat, Delhi-54

...Respondents

For applicants:

(Mr. Anuj Aggarwal, Advocate in O.A. No.1394/2021 &
Mr. Ranjit Sharma, Advocate in other O.As.)

For respondents:

(Mr. R V Sinha, Mr. Amit Sinha and Mr. A S Singh,
Advocates for respondent No.1 &
Mr. Amit Anand, Advocate for respondent Nos.2 & 3)

ORDER (ORAL)

Mr. Justice Ranjit More:

The facts of abovementioned five O.As. and the issue involved in the same being identical, they are disposed of by this common order.

2. The post of Principal under the respondent No.2 – Directorate of Education, Government of NCT of Delhi is filled through twin channels, namely,



promotion and direct recruitment in the ratio of 75 : 25.

As per the Recruitment Rules, the essential qualification for the post of Principal is as follows:-

“Essential Qualifications:

(A) Educational:

(i) Master’s Degree from a recognized University / Institute,

(ii) Bachelor of Education from a recognized university / institute; and

(B) Experience:

Ten years’ experience of teaching (Vice Principal / Post Graduate Teacher/ Trained Graduate Teacher) in a recognized High School / Higher Secondary School / Senior Secondary School / Intermediate College.”

3. The respondent No. 1 - Union Public Service Commission (UPSC) issued indicative Advertisement No.07/2021 on 24.04.2021 inviting online applications from eligible and qualified candidates for filling up 363 posts of Principal under the Directorate of Education, Education Department, Government of NCT of Delhi. This advertisement was issued during Covid-19 period and, therefore, on very next day, the respondent No.1 withdrew the same without opening Online



Recruitment Application (ORA) module on its website in the following terms:-

“Due to the prevailing conditions caused by the Novel Corona Virus (Covid-19), as a precautionary measure, the recruitment process in respect of indicative Advertisement No.07/2021, Vacancy No.21040701324 advertised/notified in the Employment News on 24.04.2021, is deferred. It would be re-published in due course.”

4. The first respondent thereafter re-published / re-issued the advertisement dated 24.04.2021 on 10.07.2021 with the closing date 29.07.2021 with the stipulation as follows:-

“The eligibility criteria i.e. Age, Educational Qualification, Experience, etc. will be counted as on 13.05.2021 as this vacancy was originally scheduled to be launched with vacancy details on 24.04.2021 with the closing date 13.05.2021.”

5. The applicants in the abovementioned O.As., approximately 50 in numbers, have completed experience criteria between the period 13.05.2021 and 29.07.2021. However, in terms of the stipulation

Item No.31



mentioned hereinabove, they are not eligible to apply to the subject post of Principal and, therefore, they have approached this Tribunal taking exception to the advertisement No.07/2021 to the extent it prescribes the closing date 13.05.2021 of the notification dated 24.04.2021 as the basis for determining eligibility, experience and qualification *qua* the subsequent notification. The applicants have also sought direction from this Tribunal to the respondents to determine eligibility, experience and qualification on the closing date 29.07.2021 of the subsequent notification for appointment to the post of Principal under the Directorate of Education, Government of NCT of Delhi. By the interim order dated 27.07.2021, the Division Bench of this Tribunal issued the following directions to the UPSC:

“As of now, we find the date, 13.05.2021, has no other significance except that it is the last date for receiving applications stipulated in the notification dated 24.04.2021. Once it is extended, we are *prima facie* of the view that it can constitute the basis for determining the eligibility criteria also.

We, therefore, pass an interim order directing that

Item No.31



(a) the respondents shall receive the applications of the applicants if they are eligible with reference to 29.07.2021; and

(b) the applicants who become eligible between 13.05.2021 and 29.07.2021, shall be dealt with separately; and if any of them are selected, further steps shall be deferred till disposal of the O.A.”

6. In pursuance of the interim orders, all the applicants were allowed to participate in the selection process. A statement was made by Mr. Ranjit Sharma, learned counsel for applicants in all the O.As., except O.A. No.1394/2021, that 13 applicants have also become successful.

7. After completion of pleadings, the above O.As. are placed before us for final hearing. We have heard Mr. Ranjit Sharma and Mr. Anuj Aggarwal, learned counsel for applicants in respective O.As., and Mr. R V Sinha, learned counsel for respondent No.1 – UPSC in all the O.As.

Item No.31



8. Mr. Ranjit Sharma and Mr. Anuj Aggarwal, learned counsel submitted before us that by earlier advertisement dated 24.04.2021, last date for receipt of applications was 13.05.2021. This advertisement was withdrawn and re-published on 10.07.2021. They submitted that though online receipt of applications was extended to 29.07.2021, i.e., the closing date, but eligibility criteria as to the age, educational qualification, experience, etc. was kept as on 13.05.2021, as per the old advertisement published on 24.04.2021.

9. The submission of learned counsel for applicants is that though the respondent No.1 extended the date for submitting online applications to 29.07.2021, the closing date for eligibility criteria was not extended and it remained as per the old advertisement, which is arbitrary.

10. The learned counsel for applicants further submitted that the present case is not a case for



extension of time to submit the applications beyond the last date, but re-publication of the advertisement with commencement date and closing date from 10.07.2021 to 29.07.2021. They invited our attention to clause 9 (b) of the 'instructions and additional information to candidates for recruitment by selection' appended with the advertisement in question and submitted that the eligibility criteria regarding experience would be the closing date for submitting the ORA on the website.

11. Mr. Sharma relied upon the decision of Hon'ble Supreme Court in **Union of India & another v. Sudhir Kumar Jaiswal**, 1994 ALLMR OnLine 404 (SC) and submitted that cut-off date can always be challenged if it is shown to be capricious and whimsical.

12. Mr. R V Sinha, learned counsel for respondent No.1, on the contrary, vehemently opposed the O.A. At the outset, he submitted that the authority to issue order is entitled to amend or rescind the said order. He also submitted that the cut-off date given in the



advertisement is sacrosanct and that cannot be changed at the behest of some of the applicants. He further submitted that if the cut-off date is changed, injustice would be caused to other persons, who did not apply on the teeth of the advertisement in question.

13. Mr. Sinha submitted that the documents in question are required to be read as a whole and reading of the advertisement in question would make the intention of UPSC clear, namely, that the cut-off date for experience criteria is 13.05.2021. He asserted that by re-issuing the earlier advertisement, the UPSC maintained the earlier cut-off date, i.e., 13.05.2021 for the purpose of experience and there is no illegality as such in keeping the earlier cut-off date for the purpose of experience in subsequent advertisement.

14. In support of his contention, Mr. Sinha relied upon the decisions of Hon'ble Supreme Court in **Zonal Manager, Bank of India & others v. Aarya K. Babu & another**, (2019) 8 SCC 587 and **Hirandra**



**Kumar v. High Court of Judicature at Allahabad
& another**, 2019 SCC OnLine SC 254.

15. We have gone through the pleadings in O.As., affidavits in reply filed by the respondents as well as rejoinders filed by the applicants. We have also gone through the decisions cited by the learned counsel for the respective parties at the Bar.

16. Before going into the issue raised by the applicants in these O.As., we would like to deal with the judgment cited by learned counsel for applicants. The Division Bench of the Hon'ble Supreme Court in **Sudhir Kumar Jaiswal** (supra) made the following observations in paragraph (4), which reads thus:

“4. As to when choice of a cut off date can be interfered was opined by Holmes, J. in *Louisville Gas & E. Co. v. Coleman*, (1927) 277 US 32 by stating that if the fixation be ‘very wide of any reasonable mark’, the same can be regarded arbitrary. What was observed by Holmes, J. was cited with approval by a Bench of this Court in *Union of India v. Parameswaran Match Works*, AIR 1974 SC 2349 in paragraph 10 by also stating that choice of a date cannot always be dubbed as



arbitrary even if no particular reason is forthcoming for the choice unless it is shown to be capricious or whimsical in the circumstances. It was further pointed out where a point or line has to be, there is no mathematical or logical way of fixing it precisely, and so, the decision of the legislature or its delegate must be accepted unless it can be said that it is very wide of any reasonable mark.”

17. From the above observations, it is clear that if the cut-off date fixed in the advertisement appears to be capricious and whimsical, then the Tribunal or the Court can interfere in the same.

The Hon'ble Apex Court in the case of **Zonal Manager, Bank of India** (supra) made the following observations:

“14. If the above decision in Mohd. Sohrab Khan case is kept in perspective it is clear that while examining the correctness of the action of the employer what would be sacrosanct will be the qualification criteria published in the notification, since if any change made to the qualification criteria midstream is accepted by the Court so as to benefit only the petitioners before it, without making it open to all the qualified persons, it would amount to causing injustice to the others who possess such qualification but had not applied being honest to themselves as knowingly they did not possess the qualification sought for in the notification though they otherwise held another degree. Therefore, if there is any change



in qualification / criteria after the notification is issued but before the completion of the selection process and the employer / recruiting agency seeks to adopt the change it will be incumbent on the employer to issue a corrigendum incorporating the changes to the notification and invite applications from those qualified as per the changed criteria and consider the same along with the applications received in response to the initial notification. The same principle will hold good when a consideration is made by the Court.”

18. Reading of the above observations makes it clear that the qualification criteria published in the advertisement would be sacrosanct since any change made in the qualification criteria midstream will amount to causing injustice to others who possess such qualification but had not applied being honest to themselves.

19. The Hon'ble Apex Court in **Hirendra Kumar** (supra) made the following observations:-

“23. The legal principles which govern the determination of a cut-off date are well settled. The power to fix a cut-off date or age limit is incidental to the regulatory control which an authority exercises over the selection process. A certain degree of arbitrariness may appear on the face of any cut-off or age limit which is prescribed, since a candidate on the wrong side of



the line may stand excluded as a consequence. That, however, is no reason to hold that the cut-off which is prescribed, is arbitrary. In order to declare that a cut-off is arbitrary and ultra vires, it must be of such a nature as to lead to the conclusion that it has been fixed without any rational basis whatsoever or is manifestly unreasonable so as to lead to a conclusion of a violation of Article 14 of the Constitution.”

20. The aforesaid observations makes unequivocally clear that in normal circumstances the cut-off date or age limit prescribed in the notification would not be interfered with unless it is shown that the same is without any rational basis whatsoever or is manifestly unreasonable so as to lead to a conclusion of a violation of Article 14 of the Constitution.

Thus, all the aforesaid judgments make it clear that the educational criteria fixed under the notification or advertisement can be interfered with in rare cases.

21. After going through the advertisement in question, we are of the opinion that the same is self-contradictory. As stated above, in clause 9 (b), the respondent No.1 – UPSC made it clear that the date of

Item No.31



determining eligibility of all candidates in every respect shall be the closing date for submitting the ORA on the website. So, in terms of the advertisement re-issued on 10.07.2021, the closing date for receiving the applications was 29.07.2021, thus the eligibility of the candidate with reference to the experience also ought to be 29.07.2021 in terms of clause 9 (a) referred to above. However, the respondent No.1 in re-issued advertisement dated 10.07.2021 submitted that though the closing date for making online applications would be 29.07.2021, but the eligibility and other conditions as mentioned in the earlier advertisement dated 24.04.2021 remain unchanged, thereby making it clear that the date of receipt of applications though extended, the eligibility criteria in respect of the experience was maintained as per the earlier advertisement. It is important to note that despite the extension of closing date, the respondent No.1 maintained the earlier position of the advertisement in the re-published advertisement.

Item No.31



22. In our view, the above facts make it clear that the advertisement issued by the respondent No.1 is self-contradictory so far as the closing date of eligibility criteria is concerned.

23. From the perusal of clause 9 (b) of the 'instructions and additional information to candidates for recruitment by selection' appended with the advertisement in question, it appears to be the policy of respondent No.1 that the eligibility criteria regarding age, qualification and experience would be the closing date for submitting the ORA on the website. We find logic in this stipulation and naturally if the date of online submission of applications is extended by re-publishing the advertisement and the applications are called afresh, then the eligibility criteria regarding experience could be as on the date of the closing date for submitting ORA on the website.

Item No.31



24. In the facts and circumstances of the case, we find merit in these O.As. They are accordingly disposed of with the following directions:

The respondent No.1 – UPSC is directed to declare the results of the applicants and take further appropriate and necessary action in accordance with law. It is made clear that since in terms of the interim directions the applicants were permitted to participate in the selection process, the observations made hereinabove will be confined to the applicants herein only.

25. All the pending M.As., if any, shall stand disposed of.

There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice Ranjit More)
Chairman

May 15, 2023
/sunil/nectu