



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

OA No. 836/2024
OA No. 771/2024
OA No. 779/2024
OA No. 669/2024
OA No. 817/2024
OA No.847/2024

Order reserved on: 04.03.2024
Order pronounced on: 06.03.2024

Hon'ble Mr. Manish Garg, Member (J)
Hon'ble Dr. Anand S. Khati, Member (A)

OA No.836/2024

Pooja Khatri & others

....Applicants

Versus

Govt. of NCT of Delhi and others

... Respondents

OA No. 771/2024

Anchal Singh and another

Versus

DSSSB and others

... Respondents

OA No. 779/2024

Anita

Versus

DSSSB and others

... Respondents



OA No. 669/2024

Seema Rani

Versus

DSSSB and others

... Respondents

OA No. 817/2024

Sheetal

Versus

DSSSB and others

... Respondents

OA No.847/2024

Km. Jyoti and others

Versus

DSSSB and others

... Respondents

Present: Mr. Ranjit Sharma, Mr. Siddharth K. Dwivedi with Ms. Nidhi Singh, Mr. Anuj Aggarwal, Mr. Sagar Chaturvedi, Mr. S.N.Sharma, counsel for the applicants.

Mr. Amit Anand, counsel for the respondents



ORDER ON INTERIM RELIEF

By Hon'ble Manish Garg, Member (J)

As the question of law in all the cases is similar, we are adjudicating all the OAs on the question of grant of interim relief by a common order.

2. The applicants in OA No.771/2024 have prayed for the following interim reliefs:-

i. Pass an order permitting the Applicants to apply against the post of Drawing Teacher against Advertisement No. 02/2024 issued by Delhi Subordinate Services Selection Board.

ii. Pass an order directing Respondents to keep 2 posts vacant till the pendency of the present OA.”

3. Mr. Siddharth K. Dwivedi, learned counsel for the applicants in OA No.771/2024 submits that in the case of Drawing Teacher, the age limit criterion mentioned in the advertisement is 30 years wherein in case of other respective posts, it is mentioned as 40 years and therefore, the action of the respondents is discriminatory and illegal in nature. He contends that the present case squarely falls within the scope and ambit of Article 14 of the Constitution of India. He further contends that the old Recruitment Rules (RRs) are placed on record wherein in respect of the age limit in the case of Drawing Teachers, it is mentioned that the age limit is 30



years (Relaxable in case of Govt. servants, University Teachers and also in case of female candidate upto a maximum of 40 years). He further contends that the terms and conditions as stipulated in the said Advertisement are contrary to RRs published in case of other post codes (10 in number).

4. Countering the aforesaid arguments, Mr. Amit Anand, learned counsel for the respondents states that the RRs stood changed in the year 2016 itself. He contends that the present selection process is strictly in accordance with the revised RRs of 2016 which are not even challenged by the applicants. In case of the other post codes in which the said amendment has not been carried out and the same still holds good. Hence, there is no case of discrimination in the present factual scenario. Even otherwise, drawing parallel or equivalence to the other post codes does not hold much water as they altogether stand in different class or category.

5. In addition to the submissions made by Mr. Siddharth K. Dwivedi, learned counsel for the applicants in OA No.771/2024 and Mr. S.N. Sharma, learned counsel for the applicant in OA No.779/2024 submits in respect of the issue of challenge of RRs, that the same has been challenged in his case in so far as two years extension is concerned, which is apparent from paras 5.2 and 5.3 of the grounds of the



preferred OA. He further contends that the applicant in this OA would become overage by more than two years if she is not allowed to participate in the selection process under reference. He further challenges the issue of disparity in the essential qualifications by stating that in respect of all subjects, it is graduation whereas in the case of drawing teachers, the respondents are asking post graduation as minimum qualification. He further informs that for other post codes as well, the amendment was carried out on 06.09.2023 wherein the age limit was curtailed to 30 years and no age relaxation for female candidates up to 40 years.

6. In addition to the submissions made by Mr. S. N. Sharma, learned counsel, Mr. Ranjit Sharma, learned counsel for the applicants in OA No.836/2024 argues that the action of the respondents has been challenged on the touchstone of the constitutional principle in so far as it is discriminatory in nature. He contends that vide Notification dated 21.12.1998, the age limit of 30 years was amended to 32 years in the initial recruitment as well.

7. Mr. Amit Anand, learned counsel for the respondents draws attention to various Office Communications dated 04.08.2023, 20.07.2023 & 26.06.2021. He contends that since the vacancies pertain to earlier year, the earlier rules



were followed and accordingly the said Advertisement was issued with conscious decision of the respondents.

8. Heard learned counsel for the parties on the question of interim relief.

Analysis:

9. In all the OAs the main thrust of the argument of the learned counsel for applicants is that for the post of Drawing Teacher, no relaxation to the female candidates has been provided except for one provided under para 8 of the advertisement. Even if there is a challenge based on the principle of Article 14 of the Constitution being illogical, arbitrary and discriminatory for grant of interim relief, each individual OA is taken up for consideration.

9.1 The applicant in OA No.669/2024 is an aspirant for the post of TGT Sanskrit who applied against the vacancy notice dated 12.01.2024. Learned counsel for the applicant explains that the vacancy notice also includes backlog vacancies and this backlog goes upto the year 2021-22. He submits that the applicant herein was eligible for participation for this post till 12.01.2024, when she crossed the upper age limit. He argues that since the advertisement was also for backlog vacancies, the eligibility of age criteria should be determined with respect to the year of the said vacancies.



9.2 In support of his contention he placed reliance on the decision of Hon'ble High court of Delhi in **Nitish Kumar and ors. Vs. Union of India and another**, Neutral Citation No.2023/DSC/001840 decided on 14.03.2023.

9.3 Accordingly, by way of an interim measure, we direct the respondents to permit the applicant to participate in the examination. However, her result shall be kept in a sealed cover.

9.4 The applicant in OA No.817/2024 is an aspirant for the post of TGT (English) (Female), TGT (Social Science) (Female) and TGT (Hindi) (Female), who applied against the vacancy notice dated 12.01.2024. Learned counsel for the applicant produced letter dated 04.08.2023 issued by Dy. Director of Education (E-III) regarding requisitions for filling up vacancies of TGT/TGT (MIL) for 4784 posts occurred during the vacancy year 2021 & 2022, meaning thereby that the old RRs have to be taken into consideration. He submits that the vacancy notice also includes backlog vacancies and this backlog goes upto the year 2021-22. He further submits that the applicant herein was eligible for participation for this post till 12.01.2024, when she crossed the upper age limit. He argues that since the advertisement was also for backlog vacancies, the eligibility of age criteria should be determined with respect to the year of the said vacancies. The lis challenging the RRs



as well as the representation are pending in this case. This OA is also challenging the Office Memorandum dated 11.06.2019 issued by Special Secretary (Services), Govt. of NCT of Delhi to the extent it has failed to provide age relaxation for the guest teachers upto number of years they have worked with the respondents.

10. Conclusion:

10.1 Learned counsel for applicants have made out a prima facie case, balance of convenience also lies in favour of the applicants and if the interim protection is not granted she is likely to suffer irreparable loss and injury more particularly, when the matter pertains to age relaxation. Therefore, he seeks an interim protection to the extent that applicant is permitted to participate in the selection/examination provisionally. Accordingly, by way of an interim measure, we direct the respondents to permit the applicant to participate in the examination. However, her result shall be kept in a sealed cover.

10.2 It is made clear that right to participate shall not give any indefeasible right to the applicants for future selection. The interim order is being passed purely to enable the applicants to participate in the selection process without prejudice to the rights and contentions of either party. The



issue of age relaxation which is a larger issue shall be determined at the stage of final hearing.

11. Issue notice to the respondents to file reply within 4 weeks. 2 weeks thereafter is granted to the applicant to file rejoinder, if any. List on 28.05.2024.

(Anand S. Khati)
Member (A)

(Manish Garg)
Member (J)

‘SD’