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Item No. 30 (C-4)

O.A. No. 283/2022



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No. 283/2022

Reserved on: 06.07.2026
Pronounced on: 30.07.2026

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

Chhavi Sharma,
Aged about 36 Years,
D/o Sh. Vishnu Dutt,
R/o E-1/1557, Mansarovar Park, Shahdara, Delhi – 110032,
Mob. No. 8920688790,
Post: Teacher (Primary) MCD,
Post Code: 01/18,
Group –B.

...Applicant

(By Advocate: Mr. Shubham Bahl for Mr. Anuj Aggarwal)

Versus

1. Delhi Subordinate Services Selection Board (DSSSB),
Through its Chairman,
Govt. of NCT of Delhi,
FC-18, Institutional Area,
Karkardooma, Delhi – 110092.
Email: dsssb-secy@nic.in.

2. Municipal Corporation of Delhi (MCD),
Through its Commissioner,
Dr. SPM Civil Centre,
J.L. Nehru Marg, New Delhi – 110002.

...Respondents

(By Advocates: Mr. Ms. Anupama Bansal and Mr. Girish C. Jha)



ORDER

Hon'ble Mr. Manish Garg, Member (J) :

Highlighting the facts of the case, learned proxy counsel for the applicant submitted that the present Original Application has been filed challenging the arbitrary and illegal action of the respondents in not issuing the appointment letter to the applicant for the post of Teacher (Primary), MCD [Post Code 16/17 (Old) and Post Code 1/18 (New)], despite the fact that the applicant had successfully cleared the selection process and similarly situated candidates had already been issued appointment letters.

1.1. Learned proxy counsel further submitted that the applicant fulfilled all the eligibility conditions and was duly selected for appointment; however, the respondents failed to issue the appointment letter on the alleged ground that the applicant had crossed the prescribed age limit. It was contended that such action is discriminatory as similarly placed candidates were issued appointment letters and the applicant alone was denied appointment.

1.2. Learned proxy counsel further submitted that the applicant has been working as a Guest Teacher under the Directorate of Education, GNCTD since 03.09.2012 and has acquired substantial teaching experience. It



was argued that the respondents failed to consider the applicant's experience and entitlement to age relaxation available to contractual/guest teachers. It was contended that denial of such benefit is arbitrary and violative of Articles 14 and 16 of the Constitution.

1.3. Learned proxy counsel argued that the applicant was entitled to age relaxation in terms of the Memorandum dated 11.06.2019 issued by GNCTD, as she was working as a Guest Teacher under the Directorate of Education. It was submitted that contractual teachers working in MCD schools were being granted five years' age relaxation, whereas Guest Teachers working under GNCTD were denied the same benefit without any rational basis.

1.4. Reliance was placed upon the judgment of the Hon'ble Supreme Court in **Union Public Service Commission, New Delhi v. Jamuna Kurup & Anr., AIR 2008 SC 2463**, wherein it has been held that contractual employees can also be treated as departmental employees for the purpose of extending service benefits. Learned proxy counsel submitted that the applicant, being a Guest Teacher under GNCTD, was similarly entitled to the benefit of age relaxation.

1.5. Learned proxy counsel further submitted that the action of the respondents is contrary to the law laid down by the Hon'ble Delhi High



Court in **Kuldeep Singh & Anr. v. DSSSB & Anr.**, 2005 (80) DRJ 503, wherein the Court recognised the right of selected candidates for issuance of appointment letters when they satisfy the requisite conditions.

1.6. It was further argued that the respondents failed to consider that the applicant had been continuously working as a Guest Teacher for several years and had crossed the age limit due to circumstances beyond her control. Reliance was placed upon the judgment of the Hon'ble Delhi High Court in **Sachin Gupta & Ors. v. Delhi Subordinate Services Selection Board & Ors.** 2009 (2) SCT 231 (Delhi) wherein one-time age relaxation was granted to candidates who had suffered hardship due to delayed recruitment processes.

1.7. Learned proxy counsel submitted that the impugned action of the respondents is arbitrary, discriminatory and violative of Articles 14, 16 and 21 of the Constitution, as no reasonable justification has been provided for denying appointment to the applicant while granting the same benefit to other similarly situated candidates.

1.8. Learned proxy counsel lastly submitted that the respondents have failed to take into consideration the applicant's long experience as a teacher, her eligibility, and the applicable government instructions



regarding age relaxation, and therefore, the applicant has prayed for a direction to the respondents to issue the appointment letter and appoint her to the post of Teacher (Primary), MCD [Post Code 16/17 (Old) / Post Code 1/18 (New)] with all consequential benefits, including back wages/salary, seniority and other service benefits. The applicant has also sought a declaration that she is entitled to age relaxation of two months being a departmental candidate and, therefore, fulfills the prescribed upper age limit as per Advertisement No. 02/2017 dated 07.08.2017 read with Advertisement No. 01/2018 dated 26.06.2018.

2. Learned counsel appearing for the East Delhi Municipal Corporation submitted that the present Original Application is devoid of merit and liable to be dismissed, as the applicant was not eligible for appointment to the post of Teacher (Primary) due to being over-age as on the prescribed cut-off date.

2.1. Learned counsel further submitted that the applicant had applied for the post of Teacher (Primary) under Post Code 16/17, which was subsequently superseded by Post Code 01/18 vide Advertisement No. 01/2018 dated 26.06.2018 issued by DSSSB. As per the advertisement, the maximum age limit prescribed for an Unreserved category candidate was 30 years. However, the applicant, whose date of birth is 15.07.1987,



had already crossed the prescribed age limit as on the relevant cut-off date i.e. 30.07.2018.

2.2. Learned counsel further submitted that the applicant is seeking age relaxation on the ground that she had worked as a Guest Teacher under the Directorate of Education, GNCTD. However, the advertisement specifically provided age relaxation only to Contract Teachers (Primary) engaged by the erstwhile North, South and East Delhi Municipal Corporations, subject to fulfillment of the prescribed conditions. Since the applicant was never engaged as a Contract Teacher by any of the Municipal Corporations and had only worked as a Guest Teacher under GNCTD, she is not entitled to such relaxation.

2.3. It was argued that the condition of age relaxation was a policy decision incorporated in the advertisement and the same cannot be extended beyond its express terms. The applicant cannot claim parity with MCD Contract Teachers as her employment was under a different department and not under the respondent Corporation.

2.4. Learned counsel submitted that the applicant was provisionally selected by DSSSB; however, such selection did not confer any indefeasible right to appointment. The appointing authority is required to independently verify the eligibility, age and other conditions before



issuing the appointment letter. Since the applicant was found over-age during scrutiny of documents, her candidature was rightly not processed for appointment.

2.5. Learned counsel further submitted that the applicant's reliance upon the experience gained as a Guest Teacher does not create any right for appointment or age relaxation, as the recruitment was governed strictly by the terms and conditions of the advertisement.

3. Learned counsel appearing for DSSSB submitted that the Board is only a recruiting agency and has no role in issuance of appointment letters. The role of DSSSB was confined to conducting the selection process and forwarding the dossiers of provisionally selected candidates to the concerned user department for further action.

3.1. Learned counsel further submitted that DSSSB had issued Advertisement No. 02/2017 for recruitment to the post of Teacher (Primary) under Post Code 16/17, which was subsequently superseded by Advertisement No. 01/2018 under Post Code 01/18 for filling up 4366 vacancies in MCD. The applicant participated in the selection process and secured 123.30 marks, which were above the prescribed cut-off marks of 117.52 marks for the UR category, and was accordingly shortlisted for uploading of e-dossier.



3.2. Learned counsel further submitted that vide Supplementary Result Notice No. 1110 dated 17.07.2020, DSSSB provisionally selected the applicant and forwarded her e-dossier to the concerned user department, i.e., MCD, for issuance of appointment letter after verification of eligibility and documents.

3.3. It was submitted that the selection by DSSSB was purely provisional and subject to verification by the user department. The result notice itself specifically provided that the user department shall verify the correctness of information/documents furnished by the candidates and satisfy itself regarding eligibility before issuing the appointment letter.

3.4. Learned counsel argued that during verification of documents, the user department found the applicant to be over-age and accordingly did not issue the appointment letter. Therefore, no fault can be attributed to DSSSB, as the final decision regarding appointment rests with the appointing authority.

3.5. Learned counsel further submitted that the applicant cannot claim appointment merely on the basis of being shortlisted or provisionally selected, as eligibility conditions, including age criteria, are required to be fulfilled at every stage of recruitment.



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

5. ANALYSIS :

5.1. The central point of contention is whether it is arbitrary, discriminatory, and a violation of Article 14 of the Indian Constitution to deny age relaxation benefits to the applicant, who served as a Guest Teacher in the Directorate of Education, by not classifying her as a departmental employee, whereas Contract Teachers in the MCD are granted a 5-year age relaxation and are considered departmental candidates.

5.2. The applicant's claim is required to be examined in the light of the age relaxation clause contained in the advertisement for the post of Teacher (Primary), MCD. The said clause specifically provided that a one-time age relaxation would be granted to Contract Teachers (Primary) who were presently engaged by the unified Municipal Corporation or the erstwhile North, South and East Delhi Municipal Corporations. The extent of such relaxation was to be equivalent to the number of years for which the Contract Teacher had rendered service with the Municipal Corporations, subject to a maximum of five years. It was further stipulated that only those years in which the Contract



Teacher had rendered service for more than 120 days would be reckoned for the purpose of computing the age relaxation.

5.3. It is pertinent to note that the relevant age relaxation clause contained in the advertisement reads as under:

“Not exceeding 30 years, Age Relaxable to SC/ST/OBC/Departmental candidates/Exsm/PH in accordance with the instructions / orders issued by Govt. of India from time to time.”

5.4. The Rules are silent as to whether the Guest Teacher can be regarded as a Departmental candidate or not for the Primary Teachers post in MCD. Whereas, for the post of Assistant Teacher (Primary) in the Directorate of Education, the age limit is prescribed as under:

“Not exceeding 30 years, Age Relaxable to SC/ST/OBC/Departmental candidates/ExSm/PH in accordance with the instructions/ orders issued by Govt. of India from time to time.”

There is a further stipulation concerning Guest/Contract teachers.

The same reads as under:-

“Relaxation in upper age limit as a one time measure upto the actual time spent as guest/contract teacher in Dte. Of Education, subject to a maximum of 5 years provided they have worked for atleast 120 working days in that particular year (this would be applicable to those guest/contract teachers who have worked for the academic years 2012-13, 2013-14, 2014-15, 2015-16 & 2016-17).”

Thus, both the Guest Teacher/Contract teacher have been treated at par.



5.5. The purpose of extending the benefit of age relaxation was twofold:

(a) To grant, as a one-time measure, relaxation in the upper age limit equivalent to the actual period spent as a Guest/Contract Teacher in the Directorate of Education, subject to a maximum of five years, provided the candidate had worked for at least 120 working days in the relevant academic year. This benefit was applicable only to those Guest/Contract Teachers who had served during the academic years 2012–13, 2013–14, 2014–15, 2015–16, and 2016–17, thereby emphasizing the requirement of “continuous service”.

(b) To extend the benefit of five years' age relaxation to those who had been continuously working as Guest/Contract Teachers, as no recruitment advertisement had been issued for filling the posts in question, resulting in such candidates becoming over-age as on the closing date of the advertisement.

5.6. The above one-time relaxation for the posts in question was premised on the Circular dated 11.06.2019 issued by Government of Delhi, which reads as under:

“Sub: Relaxation In upper age limit to the contractual employees working under Government of NCT of Delhi at the time of regular appointment on direct recruitment basis.”



The Issue with regard to suitable relaxation in upper age limit to contractual employees, as a onetime measure, In Direct Recruitment has been examined in the light of various judicial pronouncements, DOPT guidelines, the opinion of Additional Solicitor General and in consultation with Finance Department and Law Department of GNCTD.

2. The Competent Authority is pleased to order all Head of Departments to fill-up the posts as per the recruitment rules and contractual employees hired against those posts may be given age relaxation as per the the following modalities to be adopted on uniform basis for In respect of contractual employees under Government of NCT of Delhi.

I. The contractual employees working against teaching posts will be eligible for one time relaxation in upper age limit upto maximum period of 5 years. The quantum of age relaxation will be subject to number of years spent in the department on contract basis provided, they have worked for at least 120 days in a particular academic year.

II. The contractual employees working against all other administrative posts, will be eligible for one time relaxation in upper age limit upto maximum period of 5 years. The quantum of age relaxation will be subject to number of years spent in the department on contract basis provided, they have worked for at least 180 days in a particular year.

III. The contractual employees, working at the time of applying for direct recruitment, shall only be considered eligible for relaxation In upper age limit.

IV. The contractual employees would be considered eligible for relaxation In upper age limit only for the department in which they are working.

V. The contractual employees, who have already availed one time age relaxation, granted by the respective department, would not be eligible under the scheme.

VI. Any contractual employee, whose service was terminated due to unsatisfactory work during their contractual employment, shall be treated as ineligible for the benefit of relaxation In upper age limit.

VII. The contractual employees may seek "age from the department where they are working on contract basis. The relaxation certificate" department concerned, after examination of application, In accordance with the above modalities, shall issue the certificate by clearly indicating the quantum of age relaxation, the contractual employee is eligible for. The Certificate shall be Issued under the signature and seal of HoD concerned.



3. This issues with the approval of Competent Authority.”

The entire framework of the above circular proceeds upon extension of substantive service benefits despite continuance of the original nomenclature as Contract Teacher(s).

5.7. In Civil Appeal No. _of 2026 (arising out of SLP (Civil) No. 30762 of 2024), **Bhola Nath v. The State of Jharkhand & Ors., 2026 INSC 99**, decided on 30.01.2026, the Hon'ble Supreme Court held as under:

“14. In light of our discussion, in the foregoing paragraphs, we summarize our conclusions as follows:

I. The respondent-State was not justified in continuing the appellants on sanctioned vacant posts for over a decade under the nomenclature of contractual engagement and thereafter denying them consideration for regularization.

ii. Abrupt discontinuance of such long-standing engagement solely on the basis of contractual nomenclature, without either recording cogent reasons or passing a speaking order, is manifestly arbitrary and violative of Article 14 of the Constitution.

iii. Contractual stipulations purporting to bar claims for regularization cannot override constitutional guarantees. Acceptance of contractual terms does not amount to waiver of fundamental rights, and contractual stipulations cannot immunize arbitrary State action from constitutional scrutiny.

iv. The State, as a model employer, cannot rely on contractual labels or mechanical application of Umadevi (supra) to justify prolonged ad-hocism or to discard long-serving employees in a manner inconsistent with fairness, dignity and constitutional governance.

V. In view of the foregoing discussion, we direct the respondent-State to forthwith regularize the services of all the appellants against the sanctioned posts to which they were initially appointed. The



appellants shall be entitled to all consequential service benefits accruing from the date of this judgment.

15. Accordingly, the present appeals are disposed of and all writ petitions are allowed and the judgments dated 17th September, 2024, 15th October, 2024 and 2nd December, 2024, in LPA Nos. 390 of 2024, 356 of 2024 and 368 of 2024, respectively, passed by the High Court of Jharkhand at Ranchi are set aside."

5.8. In *The General Manager, Southern Railway v. Ranga Chari*, 1962

(2) SCR 586, the Hon'ble Supreme Court observed as under:

" If the narrow construction of the expression "matters relating to employment" is accepted it would make the fundamental right guaranteed illusory. In that case it would be open to the State to comply with the formal requirements of Art. 16(1) by affording equality of opportunity to all citizens in the matter of initial employment and then to defeat its very aim and object by introducing discriminatory provisions in respect of employees soon after their employment. Would it, for instance, be open to the State to prescribe different scales of salary for the same or similar posts, different terms of leave or superannuation for the same or similar post? On the narrow construction of Art. 16(1) even if such a discriminatory course is adopted by the State in respect of its employees that would not be violative of the equality of opportunity guaranteed by Art. 16(1).

It was further held that such a result could not obviously have been intended by the Constitution.

It was also held that Article 16(2) provides that no citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State. This sub-Article emphatically brings out in a negative form what is guaranteed affirmatively by Art. 16(1). Discrimination is a double-edged weapon; it would operate in favour of some persons and against others; and Art. 16(2) prohibits discrimination and thus assures the effective enforcement of the fundamental right of equality of opportunity guaranteed by Art. 16(1). The words "in respect of any employment" used in Art. 16(2) must, therefore, include all matters relating to employment as specified in Art. 16(1). Therefore, we are satisfied that Mr. Sen is right when on behalf of the Attorney General he conceded that promotion to selection post is included both under Art. 16(1) and (2). Broadly stated Bombay and the Patna High Courts support the concession made by Mr. Sen (Vide: Pandrang Kashinath More v. The Union of India; Sukhnandan v. State) whereas the Allahabad High Court is against it (vide: Moiniuddin v. State of Uttar Pradesh).



Further it was held that Articles 16(1) and 16(2) of the Constitution are intended to give effect to Art. 14 and Art. 15(1) of the Constitution and these Articles form parts of the same constitutional code of guarantees and supplement each other. Article 16(1) should, therefore, be construed in a broad and general, and not pedantic and technical way. So construed, "matters relating to employment" cannot mean merely matters prior to the act of appointment nor can 'appointment to any office' mean merely the initial appointment but must include all matters relating to employment, whether prior or subsequent to the employment, that are either incidental to such employment or form part of its terms and conditions and also include promotion to a selection post.

But in exercising its powers under the Article, it should be the duty of the State to harmonise the claims."

5.9. In **Union of India v. Somasundaram Viswanath**(1989) 1 SCC 175, the Apex Court observed as under:

"6. It is well-settled that the norms regarding recruitment and promotion of officers belonging to the Civil Services can be laid down either by a law made by the appropriate legislature or by rules made under the proviso to Article 309 of the Constitution of India or by means of executive instructions issued under Article 73 of the Constitution of India in the case of Civil Services under the Union of India and under Article 162 of the Constitution of India in the case of Civil Services under the State Governments. If there is a conflict between the executive instructions and the rules made under the proviso to Article 309 of the Constitution of India, the rules made under proviso to Article 309 of the Constitution of India prevail, and if there is a conflict between the rules made under the proviso to Article 309 of the Constitution of India and the law made by the appropriate legislature the law made by the appropriate legislature prevails. ..."

5.10. In **Union Public Service Commission, New Delhi Vs. Jamuna Kurup &Anr.**, AIR 2008 SC 246, the Apex Court held 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.

14. The learned counsel for appellant submitted that the advertisement granted age relaxation to employees of MCD and employees of government of India, and that the words 'permanent' or 'regular' were not used either with reference to 'employees of government' or 'employees of MCD'. It is pointed out that in *Vaghela (supra)*, this Court while dealing with persons employed in identical circumstances, that is 'engaged for a period of six months from the date of joining or till a candidate selected by UPSC joined on regular basis', held that the term 'government servant' did not refer to or include persons employed on contract basis. It is argued that on the same principle, the term 'employees of MCD' cannot include a contract employee of MCD. We cannot agree. *Vaghela (Supra)* related to contract employment by a government whereas in this case the contract employment is by a Municipal Corporation. The reason that weighed with this Court in *Vaghela* to hold that a contract employee was not a government servant, was in view of the special connotation of the term 'government servant'. This Court after referring to the decision of the Constitution Bench in *Roshanlal Tandan vs. Union of India* 1968 (1) SCR 185, and the decision in *Dinesh Chandra Sanpma vs. State of Assam* 1977 (4) SCC 441, held that employment under the government is a matter of status and not a contract even though acquisition of such a status may be preceded by a contract; and that contract employees of the government were governed by the terms of contract and did not possess the status of government servants nor were governed by rules framed under Article 309 of the Constitution, nor enjoyed the protection under Article 311. But a Municipal Corporation is not 'government', and municipal employees are not government servants governed by Article 309 to 311. Though permanent employees of municipal corporation or other statutory bodies may be governed by statutory rules, they do not enjoy the status of government servants. Therefore, the decision in *Vaghela*, rendered with reference to government servants may not be of any assistance in interpreting the



term 'employees of MCD'. In fact, for that very reason, these matters were de-linked from the hearing of Vaghela."

5.11 In the matter of **Shailesh Dhairyawan vs. Mohan Balkrishna**

Lulla (2016) 3 SCC 619, it was observed as follows:

"31. The aforesaid two reasons given by me, in addition to the reasons already indicated in the judgment of my learned Brother, would clearly demonstrate that the provisions of Section 15(2) of the Act require purposive interpretation so that the aforesaid objective/purpose of such a provision is achieved thereby. The principle of "purposive interpretation" or "purposive construction" is based on the understanding that the court is supposed to attach that meaning to the provisions which serve the "purpose" behind such a provision. The basic approach is to ascertain what is it designed to accomplish? To put it otherwise, by interpretative process the court is supposed to realise the goal that the legal text is designed to realise. As Aharon Barak puts it:

"Purposive interpretation is based on three components: language, purpose, and discretion. Language shapes the range of semantic possibilities within which the interpreter acts as a linguist. Once the interpreter defines the range, he or she chooses the legal meaning of the text from among the (express or implied) semantic possibilities. The semantic component thus sets the limits of interpretation by restricting the interpreter to a legal meaning that the text can bear in its (public or private) language."

5.12. In Civil Appeal No(s). ___/2023 [arising out of SLP (Civil) Diary No. 21319 of 2022], **Union of India v. Uzair Imran & Ors.**, the Hon'ble Supreme Court held as under:

"The principle that if two views are reasonably possible on a given set of facts and that the courts would stay away from interference and not substitute its view for the view taken by the employer, may not apply in a case of the present nature where the conflicting views could be resolved by a mere reference to the certificate-issuing authority to clarify what the certificate connoted. After all, the future of a prospective appointee called for an approach consistent with the preambular promise of securing justice and equality of opportunity, which the appellant failed to secure."



5.13 In OA No. 1039 of 2021 titled *Shelja Dhama and ors Vs DSSSB and anr.* decided by the Principal Bench of Tribunal on 21.06.2021, it was observed as follows:

“9. Once the benefit of age relaxation was extended through the Rules framed under proviso to Article 309 of the Constitution of India, the only way it can be denied is by amending or substituting the Rules. Though in the year 2019, a proposal was mooted for amending the Rules in such a way that benefit of relaxation upto 40 years for women candidates cannot be taken away. That did not materialize. In other words, the amendment was not notified.

10. It is fairly well settled that a statutory rule can be operative only when it is notified, and not otherwise. The conditions in the advertisement are required to be in conformity with the Recruitment Rules. They cannot run contrary to the Rules. There was absolutely no basis or justification for the DSSSB, for incorporating the conditions in the Advertisement, which are not in conformity with the Recruitment Rules. It is rather unfortunate that the respondent organisation did not even pay proper attention and that became responsible for generating voluminous litigation.

11. It is not to be urged that the basis for the relaxation incorporated in the 1991 Rules was the letter dated 01.11.1980 and with the withdrawal of the same on 06.03.2020, the Rule itself loses its significance. The contention is difficult to be accepted. The Rules can be framed or amended in the absence of letters or decision of the LG. It is just unacceptable to argue that with the change of decision by the LG, Delhi, the Rule has undergone alteration without any further exercise.”

5.14 In terms of Clause 6 of the advertisement, the applicant has been considered to be regarded as a departmental candidate with at least three years of “continuous service” as read with OM dated 11.6.2019. The age relaxation clause in the advertisement uses the words “in a particular academic year.” Clause I OM dated 11.06.2019 uses the words “in a particular academic year,” whereas Clause II uses the word “in a



particular year.” The “academic year” has not been defined and spelled out. Both the advertisement as well as the OM dated 11.06.2019 are silent on which period would be construed as the “academic year” for the purposes of arriving at the relevant period for the purposes of according the benefit of age relaxation. Whether five academic years prior to the last date of closing applications or the ongoing period of the academic year, more particularly, one should not overlook the fact that the opening date of the application was 04.06.2021 and the closing date of the application was 3.7.2021. In terms of advertisement, it is not a “Reservation benefit” but an “Age Relaxation” benefit, which is not mutually interchangeable. The age relaxation will be regulated as per DOPT guidelines. Apparently, the MCD had engaged teachers on a contractual basis, whereas the Directorate of Education, Government of NCT has engaged teachers both as Guest teacher as well as contract teachers. Nothing has come on record to prove to the contrary. Rules are silent on the treatment of Guest Teachers and their status, even though their engagement had been through regular channels. In the present case, the age relaxation has a direct nexus to the experience rendered in terms of the OM dated 11.6.2019. Illustratively, we observe that Vacancy Advertisement, wherein the respondents have taken corrective measures:

Guest/Contract teachers: Relaxation in upper age as a one-time measure up to the actual time spent as guest/contract teacher in Dte. Of



Education, subject to a maximum of 5 years, provided they have worked for at least 120 working days in that particular year (this would be applicable to those guest/contract teachers who have worked for the academic years 2012-13, 2013-14, 2014-15, 2015-16 & 2016-17).

Needless to say, a harmonious interpretation of the word “Continuous Service” used in clause 6 of the advertisement read with OM dated 11.6.2019 ought to be construed for five years in the academic year in both cases, namely Guest Teachers/ Contract Teachers. On said analogy, the applicant is entitled avails concession of age for participating in the recruitment process to the extent of rendering “continuous service”. Hence, there cannot be an artificial distinction between the Guest Teacher and the Contract Teacher while satisfying the requirement of working for a continuous period of five years, which the applicant has been able to demonstrate.

6. CONCLUSION :

6.1. In view of the above analysis, the Original Application is allowed. The respondents are directed to offer an appointment to the applicant, extending the benefit of age relaxation. The applicant appointment shall be treated as a fresh appointment to be adjusted against future vacancies and or by creating supernumerary posts as per the administrative convenience.



6.2. All pending M.A.(s), if any, are disposed of. No Costs.

(Dr. Anand S. Khati)
Member (A)

(Manish Garg)
Member (J)

/as/

Central Administrative Tribunal