

\$~24(2021)

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 10415/2021 & CM Nos.32035-36/2021**

POOJA BHATIJA & ORS. Petitioners

Through : Mr. Sudhir Naagar, Adv.

versus

DELHI SUBORDINATE SERVICES SELECTION BOARD & ORS.

..... Respondents

Through : Mrs. Avnish Ahlawat, Standing Counsel/GNCTD with Mr. Nitesh Kumar Singh, Mrs. Tania Ahlawat & Ms. Palak Rohemetra, Advs. For R-1 to 3.

Mr. Tushar Sannu, Standing Counsel with Ms. Ankita Bhadouriya and Mr. Shubham Gupta, Advs. for R-5/SDMC.

Mr. Kumar Rajesh Singh, Adv. for R-6/EDMC.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

ORDER

% **17.09.2021**

[Physical Court Hearing]

CM No.32036/2021

1. Allowed, subject to just exceptions.

W.P.(C) 10415/2021 & CM No.32035/2021*[Application filed on behalf of the petitioners for interim directions]*

2. Apart from the anything else, it is not in dispute that, there are, if not more, 1126 vacancies available for the post of Special Educator (Primary). The irony is, while the respondents are not getting candidates for appointments to the post of Special Educator (Primary), they have, in a sense, created an impediment in the way of interested candidates, by insisting on the age criteria, presently, put in place.

2.1. A co-ordinate Bench of this court in two judgments has issued directions to the respondents, to consider relaxation in the age criteria, concerning appointment(s) to the post of Special Educator.

3. In this context, our attention has been drawn by Mr. Sudhir Naagar, who appears on behalf of the petitioners, to page 156 and 158 of the case file.

3.1. A perusal of page 156 of the case file would show that, the Government of NCT of Delhi (GNCTD) has issued an office order, dated 06.12.2019, whereby onetime age relaxation of 10 years, beyond the age limit prescribed by the Directorate of Education in the relevant recruitment rules qua the post of Special Education Teacher, stood granted.

3.2. Likewise, a perusal of the document appended on page 158 of the case file would show that, the GNCTD has issued, in the past, another order, dated 13.03.2020 whereby, *inter alia*, onetime age relaxation, concerning the post of Special Educator (Primary), was granted in respect of Post Code No.15/2017.

3.3. As is apparent, the office order dated 06.12.2019 relates to those schools, which function under the aegis of Directorate of Education (DOE), while the office order, which is dated 13.03.2020, concerns schools functioning under the municipal corporation of Delhi i.e., South, East and North Delhi Municipal Corporation [hereafter referred as “SDMC, EDMC and NDMC”].

3.4. Apart from the fact that, there is differential treatment accorded by the GNCTD in respect of the Special Educators appointed in schools, which are run under the aegis of DOE, as against those, which are managed by the aforementioned municipal corporations, the fact, that Special Educators are not available, who fulfil the age criteria prescribed by the GNCTD, requires a closer look by the respondents—this aspect of the matter appears to have been missed by the Central Administrative Tribunal (in short ‘the tribunal’), while passing the impugned order in OA No.1355/2021, dated 20.07.2021.

4. Accordingly, issue notice to the respondents.

4.1. Ms. Avnish Ahlawat accepts notice on behalf of respondent nos.1 to 3, while Mr. Tushar Sannu accepts notice on behalf of respondent no.5/SDMC. Likewise, Mr. Kumar Rajesh Singh accepts notice on behalf of respondent no.6/EDMC.

4.2. Counter-affidavit(s) will be filed, before the next date of hearing.

4.3 On steps being taken, notice shall issue to respondent no.4/NDMC, *via* all permissible modes including e-mail.

5. On the next date of hearing, Ms. Ahlawat will inform the court as to, whether our concern with regard to the large number of vacancies available qua the post of Special Educator (Primary) has been put to the relevant authority, and the decision, if any, taken in that behalf.

5.1. The authority concerned has to view the matter, from the perspective of the under-privileged children, and, then, perhaps, tweak the policy to cater to their needs.

6. Ms Ahlawat will ensure that, the order, passed by us today, is placed before the concerned authority.

7. List the matter for directions on 30.09.2021.

RAJIV SHAKDHER, J

TALWANT SINGH, J

SEPTEMBER 17, 2021

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[Click here to check corrigendum, if any](#)