

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

+ **Date of Decision: 29.08.2014**

% **W.P.(C) 5518/2014 & C.M. No.10960/2014**

BHARTI PAPNAI PANDEY & ORS. .... Petitioners  
Through : Sh. Ashok Agarwal and Ms. Nisha  
Tomar, Advocates, for the petitioners  
and interveners.  
versus

DELHI SUBORDINATE SERVICES SELECTION BOARD  
& ORS. .... Respondents  
Through : Ms. Zubeda Begum, Standing  
Counsel for DSSSB  
Sh. Gaurang Kanth, Advocate, for R-  
4 & 5, SDMC/NDMC.  
Mr. Rajesh Singh, Standing Counsel  
for R-6

**CORAM:**  
**HON'BLE MR. JUSTICE S. RAVINDRA BHAT**  
**HON'BLE MR. JUSTICE VIPIN SANGHI**

**S. RAVINDRA BHAT, J. (OPEN COURT)**

1. The petitioners are aggrieved by the order of the Central Administrative Tribunal (CAT/ Tribunal) dated 28.05.2014 in O.A. No.2848/2013, wherein they had sought for a direction to the respondents, viz. the three Municipal Corporations i.e. North Delhi Municipal Corporation, South Delhi Municipal Corporation and East Delhi Municipal Corporation (collectively referred to as 'the MCDs') that general age relaxation ought to be granted for female candidates in line with the various orders of the Central Government and Government of NCT, in respect of the post of Special Educator

(Primary) – Post Code No.1/12 in the MCDs, advertised on 13.02.2012. The Tribunal vide its impugned order disposed of the application, without going into the merits of the case, while directing the Government of NCT of Delhi to consider the representation of the applicants/petitioners and pass appropriate and reasoned orders. It is contended on behalf of the petitioners that the post of Special Educators (Primary) was, in fact, created pursuant to the directions of the Division Bench of this Court dated 16.09.2009 in ***Social Jurist v. Govt. of NCT of Delhi***, 163 (2009) DLT 489, in light with the obligations of the local Government and Municipal Authorities and other Government establishments under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (herein after referred to as ‘Disabilities Act’) and rules framed thereunder.

2. Learned counsel relied upon a previous order of the Division Bench of this Court in ***Syed Mehedi vs. Government of NCT of Delhi*** W.P.(C) No.2887/2014 decided on 10.07.2014 whereby, under identical circumstances, the Court had directed the Government of NCT of Delhi to consider the petitioners’ request for age relaxation having regard to its notification dated 26.03.2013 granting blanket age relaxation of 10 years to women candidates. The directions are in the following terms:-

*“4. .... That the respondent Department is alive to the need to pass orders with respect to age relaxation, having regard to the larger public interest in filling-up posts, is also clear from its Public Notice dated 26.03.2013, relaxing the age of female candidates by*

*10 years. Concededly, this Court is not called upon to decide the legality of such a blanket age relaxation, exclusively based on gender. What is apparent, however, from such general order is that the respondents themselves are alive to the fact that there is a crying need to fill the posts and need to take one general measure, identifying all female candidates being eligible for age relaxation for 10 years. This implies that all candidates who are otherwise eligible but are not women should not be discriminated against at least with respect to consideration of their request for age relaxation. We are fortified in this conclusion because of the events which occurred; despite directions of this Court which were issued over 5 years ago and the advertisement, the Govt. Of NCT of Delhi has not been able to fill the posts.*

*5. In the circumstances, we direct the GNCTD to consider the petitioner's request, having regard to the Notification dated 26.03.2013, without being inhibited by the fact that he would not be eligible in terms of the Notification on the ground that he does not fulfil the gender criteria. Instead, the GNCTD must keep in mind that a general relaxation of 10 years has been provided for. Other relevant factors too shall be taken into account. This exercise of considering the petitioner's application and case for age relaxation shall be completed and a reasoned order indicated to him directly, within six weeks from today."*

3. It was submitted on behalf of the respondents MCDs that in the present case the advertisements had been worked out, and appointments had already been made pursuant to the notification of 13.02.2012, which was the subject matter of the proceeding before the CAT. It was also submitted that out of the 1610 posts, only 47 could be filled up and that the balance posts have now been advertised

afresh. The cut off for receipt of applications in the fresh process also expired on 24.02.2014. Counsel, however, submitted that pursuant to an order of a Division Bench in another case pertaining to reservations under the Disabilities Act, a corrigendum was published subsequently, as a result of which, the cut off date was shifted to 27.08.2014. It was submitted that under these circumstances, any further order or direction will only result in entailing further delay in processing the applications and making appointments.

4. This Court has considered the submissions. The decision in *Syed* (supra) took note of the fact that the post of Special Educators was sanctioned and sought to be filled pursuant to orders of the Division Bench of this Court in *Social Jurists* (supra). Those directions were made on 16.09.2009. However, the posts have not been filled as, apparently, there are not enough eligible candidates who fulfil the criteria fixed, including that of age prescription. Whilst the respondents MCDs concern about the possible delay in the filling up of the vacancies is understandable, at the same time this Court is of the opinion that – given the general relaxation for women, which had been resorted to by the Government of NCT of Delhi in larger public interest, to ensure that experienced Special Educators are selected and allowed to man the positions, and the apparent lack of candidates meeting the age criteria, it would be in the public interest if the MCDs consider this matter and pass appropriate orders for age relaxation, even in respect of the ongoing recruitment.

5. Accordingly, a direction is issued to the said MCDs to consider

the matter at the highest level and, if possible, hold a joint meeting and arrive at a common decision, within three weeks from today. The Government of NCT of Delhi shall take appropriate steps to initiate the process of holding the meetings of the three MCDs and the DSSSB, and shall coordinate between the MCDs and the DSSSB so that the common meeting is held and a decision is taken on record at the earliest available opportunity within three weeks from today. In the event of the MCDs ultimately decide to grant the age relaxation, proper corrigendum shall be issued thereafter to the advertisement in that respect, and the last date for submission of applications shall be appropriately extended. The Chief Secretary of the GNCTD may fix the convenient date for the joint meeting with the MCDs and DSSSB within one week.

6. The writ petition is disposed of in terms of the above directions.
7. Copy of the order shall be made available to the Commissioners MCDs, the DSSSB, as well as the Chief Secretary, Government of NCT of Delhi to be served through the Standing Counsel.
8. Pending applications are disposed of in the above terms. Order be given dasti to counsel for both the parties.

**S. RAVINDRA BHAT, J**

**VIPIN SANGHI, J**

**AUGUST 29, 2014**

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