

Govt. Of Nct Of Delhi And Anr Vs Amit Yadav

Court: Delhi High Court

Date of Decision: Oct. 11, 2019

Hon'ble Judges: G.S.Sistani, J; Anup Jairam Bhambhani, J

Bench: Division Bench

Advocate: Avnish Ahlawat, Nitesh Kumar Singh, Laveena Arora, Amita Singh Kalkal, Aditi Gupta

Final Decision: Dismissed

Judgement

G.S.Sistani, J

CM APPL. No. 44528/2019 (for exemption)

Allowed, subject to all just exceptions.

The application stands disposed of.

CAVEAT PET. No. 1009/2019

Since learned counsel for the respondent has entered appearance and has been heard, the caveat stands discharged.

The caveat petition stands disposed of accordingly.

W.P.(C) 10783/2019

1. With the consent of the parties, the writ petition is set-down for hearing at the admission stage itself.

2. The petitioners are aggrieved by order dated 06.12.2018 passed by the Central Administrative Tribunal (Ã¢â¬ÅTribunalÃ¢â¬Å for short) in OA No.

4000/2017 filed by the applicant/Mr.Amit Yadav, respondent herein.

3. The brief facts necessary for the adjudication of the present writ petition are that pursuant to an advertisement No. 02/14 issued by the Delhi

Subordinate Services Selection Board (Ã¢â¬ÅDSSSBÃ¢â¬Å for short) in the year 2014 for filling-up vacancies for the post of Physical Education Teacher

(Ã¢â¬ÅPETÃ¢â¬Å) under Post Code No. 210/14, the respondent made an online application. The application of the respondent was rejected on the ground

of the respondent being Ã¢â¬ÅoverageÃ¢â¬Å.

4. Admittedly, the respondent belongs to the reserved category and as per the recruitment rules and the advertisement, the maximum prescribed age

limit for the above mentioned post was 30 years and there was a relaxation in the upper age limit for the reserved category candidates. For SC/ST

candidates, the age relaxation was 5 years; for OBC candidates it was 3 years; and for departmental category candidates/Government servants it was

5 years. Learned counsel for the petitioners submits that the respondent belongs to the OBC category and accordingly, the age relaxation provided in

his case would be for 3 years. Counsel further submits that the respondent is also a meritorious sportsperson and is therefore entitled to further age

relaxation on that count as well.

5. The respondent participated in the written examination and secured 86 marks and was short-listed for the said post. He was asked to upload all

documents on the E-dossier portal in October, 2017. On scrutiny of dossiers, according to the petitioners, it was found that though the respondent had

applied under the sub-category of 'meritorious sportsperson', he had not uploaded any documents certifying his sports qualification.

6. It is submitted on behalf of the petitioners that as per OM dated 12.11.1987 of DoPT regarding relaxation of upper age limit for meritorious

sportsmen/sportswomen, this concession is available only to those sportspersons who satisfy all other eligibility conditions relating to educational

qualifications etc. and furnish a certificate in the requisite form and from an authority as prescribed in OM dated 04.08.1980. It is further submitted

that as on 25.01.2015 i.e. the closing date of receipt of applications for the said post, the respondent was 33 years and 04 months old according to his

date of birth i.e. 07.09.1981. It is also submitted that the respondent was not entitled for any relaxation of age under the 'meritorious

sportsperson' category since he had not uploaded any certificate issued by the concerned authority as per OM dated 04.08.1980 certifying his

sports qualifications; and that therefore, his candidature was rejected vide Notice No. 203 issued on 07.11.2017, which led to the filing of OA No.

4000/2017 by the respondent before the Tribunal, seeking quashing of rejection notice dated 07.11.2017; and seeking directions to the petitioners

herein to grant age relaxation in the meritorious sportsperson category as well, with all consequential benefits to the applicant/respondent herein.

7. Ms. Ahlawat, learned counsel appearing for the petitioners contends, that in addition to the age relaxation under the OBC category, to gain benefit

of further age relaxation under the sports quota, the respondent should have filed a certificate in the prescribed format; however, no such certificate

was uploaded by the respondent. Reliance is placed on specific Proforma which is placed at pages 142 and 143 of the writ petition. The first

contention of Ms. Ahlawat is that the details of documents uploaded by the respondent, which were reflected in the OARS portal annexed with the

OA filed by him before the Tribunal, do not include any certificate as was required to be submitted as per the OM dated 04.08.1980; and secondly, the

sportsperson certificate which was sought to be relied upon by the respondent before the Tribunal was not a certificate in the prescribed format.

8. On the other hand, learned counsel for the respondent has drawn the attention of the court to a copy of the E-dossier which has been placed on

record by the petitioners, which also forms part of the Tribunal's record. Counsel for the respondent has drawn attention to the bottom of this E-

dossier under the subject category of 'sportsperson' to contend that the PDF document uploaded along with the E-dossier was the requisite

'meritorious sportsperson' certificate and thus it is submitted that the stand of the petitioners that no certificate was uploaded by the respondent

is factually incorrect.

9. The other submission of counsel for the respondent is that the application was submitted as per the prescribed format given in the advertisement.

Learned counsel contends that wherever the requirement was to submit a certificate in a particular format, the Advertisement made a specific

reference to the same. Attention of the court is drawn to Clause 7 (VI) of Advertisement No. 02/14, dated 12.12.2014 which reads as under :

7) HOW TO APPLY:

VI. DOCUMENTS / CERTIFICATES :

After declaration of result, the successful candidates will be called for verification of documents. The following original Documents/ Certificates and

one set of self-attested copies along with hard copy of print out of online application & copy of challan are to be produced at that time:-

I. xxx xxx xxx

II. xxx xxx xxx

III. Certificate(s) in the prescribed proforma from the Head(s) of Organization(s)/ Department(s) for the entire experience claimed, clearly mentioning

the duration of employment (date, month & year) indicating the basic pay and consolidated pay. The certificate(s) should also mention the nature of

duties performed/experience obtained in the post(s) with duration(s). Experience Certificate should be issued in prescribed format relevant to the post.

Experience certificate not in prescribed proforma but containing all the details as mentioned above would be considered on merits by the Board.

IV. Caste certificate by candidate seeking reservation as SC/ST, in the prescribed proforma from the competent authority indicating clearly the

candidate's caste, the Act/ Order under which the caste is recognized as SC/ ST and the village/ town the candidate is ordinarily a resident of.

OBC benefit shall be given only to the candidates having certificates issued by competent authority Govt. of NCT of Delhi.

V. A declaration in the prescribed format by candidate seeking reservation as OBC, that he/she does not belong to the creamy layer on the crucial

date in addition to the Community Certificate (OBC). Unless specified otherwise, the prescribed closing date for receipt of Online Application for the

post is to be treated as crucial date.

VI. Physically Handicapped certificate in prescribed proforma issued by the competent authority by Physically Handicapped persons eligible for

appointment to the post on the basis of prescribed standards of Medical Fitness. The Competent Authority to issue Physically Handicapped Certificate

shall be a Medical Board duly constituted by the Central or a State Government. The Central/State Government may constitute Medical Board(s)

consisting of at least three members out of which at least one shall be a specialist in the particular field for assessing Locomotor/Cerebral/Visual/Hearing disability, as the case may be.

VII. Certificate/ Document in respect of age relaxation claimed.

VIII. xxx xxx xxx

IX. Documentary support for any other claim(s) made.

10. Referring to the above, learned counsel for the respondent states that in the case of a meritorious sportsperson, the certificate was to be

issued by the Competent Authority in support of the claim of age relaxation. Counsel further points-out that while a prescribed proforma was required

to be submitted along with the application form to claim age relaxation under different heads e.g. for candidates pertaining to physically

handicapped category etc. but in the case of meritorious sportsperson no format was specified for the certificate.

11. Learned counsel for the respondent also submits that since the respondent had duly uploaded all required documents on the E-dossier module, no

other certificate or document as per OM dated 04.08.1980 was sought from the respondent by the petitioners.

12. Accordingly, she contends that the contention as to requirement of a certificate in any given proforma raised by the petitioners is mis-placed. Even

otherwise, it is the contention of counsel for the respondent that the certificate provided by the respondent substantially meets all the criteria as

mentioned in the advertisement; the certificate provided by the respondent was duly signed by the Competent Authority; and thus, there is no infirmity

in the order passed by the Tribunal.

13. We have heard learned counsel for the parties.

14. The candidature of the respondent was rejected by the petitioners only on the ground of the respondent being overage. It is not in dispute

that the respondent belongs to OBC category and is entitled to 3 years age relaxation being a candidate under the said reserved category.

It is also not in dispute that the benefit under the sports quota entitles a meritorious sportsperson to a further age relaxation of 5 years.

15. We are not convinced by the first submission of learned counsel for the petitioners that no certificate was uploaded for claiming the benefit of

meritorious sportsperson to entitle the respondent for age relaxation of 5 years for the reason that the copy of the E-dossier, which has been

placed on record, shows that a PDF document marked Meritorious sportsperson was indeed attached to the E-dossier. A printed copy of the

E-dossier which is placed at page 104 supports this contention of the respondent.

16. Learned counsel for the respondent has drawn our attention to the photocopies of the two certificates which were submitted. The first certificate

has been issued by the Volley Ball Federation of India and has been signed by the President and the Secretary General of the said Federation. The

second certificate has been issued by the University of Delhi, Sports Council and has been signed by the Coordinator and Director of the said

University. In both certificates, the name of the respondent, the events in which he participated, the sport in which he participated and the dates of

participation have been clearly stated.

17. Ms. Ahlawat, on the other hand only insists that the certificates should have been filed in the format prescribed as per the prescribed OM.

18. Having regard to the fact that the E-dossier submitted shows that the certificates as annexed were uploaded; and on examination we find that the

certificates detail the nature of events, the name of the respondent and the dates of events, in our view, all necessary ingredients required for

certification have been duly and specifically met. Moreover, in case the petitioners required a candidate to submit a certificate in any prescribed

format, the advertisement which was released by them ought to have specifically stated so.

19. In the above view of the matter, we find no merit in the writ petition and no infirmity in the order of the Tribunal. Accordingly, the writ petition is

dismissed. The accompanying application also stands disposed of.