

(2026) 03 DEL CK 0565

In the Delhi High Court

Case No : Writ Petition (C) No. 6873 Of 2024 & Civil Miscellaneous Application
No. 28683 Of 2024

Govt Of Nct Of Delhi And Another

APPELLANT

Vs

Upkar And Another

RESPONDENT

Date of Decision : 27-03-2026

Acts Referred:

Constitution of India, 1950 — Article 14, 141

Citation : (2026) 03 DEL CK 0565

Hon'ble Judges : Anil Kshetarpal, J;Vimal Kumar Yadav, J

Bench : Division Bench

Advocate : Avnish Ahlawat, Nitesh Kumar Singh, Aliza Alam, Mohnish Sehrawat,
Ankur Chhibber, Karn Bhardwaj, Rajat Gaba

Final Decision : Disposed Of

Judgement

Anil Kshetarpal, J

1. The present Petition, filed by the Petitioners, prays for issuance of a writ in the nature of certiorari to quash the order dated 06.12.2023 [hereinafter referred to as 'Impugned Order'] passed by learned Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No. 1888/2022, whereby the said Original Application filed by the Respondent No.1 was allowed.

2. The issue which arises for consideration in the present Petition is whether a candidate is required to possess the requisite educational qualification as on the cut-off date prescribed under the recruitment process.

FACTUAL MATRIX

3. In order to appreciate the controversy involved in the present Petition, the relevant facts, in brief, are required to be noticed.

4. The Delhi Subordinate Services Selection Board ['DSSSB']/ Petitioner No.2, pursuant to a requisition received from the Municipal Corporation of Delhi

[‘MCD’], issued Advertisement No. 01/2021 dated 04.03.2021 inviting applications for various posts, including the post of Special Educator (Primary) under Post Code 32/21. The last date for submission of applications was stipulated as 14.04.2021. The advertisement, in unequivocal terms, provided that the eligibility criteria, including educational qualifications, age and experience, shall be determined as on the closing date of submission of applications.

5. The relevant extract of the vacancy notification is reproduced as under:-

Post Code-

32/21

Name of Post-

SPECIAL EDUCATOR

(Primary)

Municipal Corporation of Delhi

Number of Vacancies:-

(Total-1126)-(EWS-54, UR-487, OBC-328, SC-I 64, ST-93) including PwD(PH(VH-22), PH(OH-23))

Educational Qualification:-

Essential:-

(I) Senior Secondary School Certificate

(12th Class or its equivalent from a recognized Board/ Institute (II) 2 years Diploma programme in Special Education recognized by the

Rehabilitation Council of India in any category of Disability or any other equivalent qualification approved by the Rehabilitation Council of India. (III) Pass In Central Teacher Eligibility Test conducted by Central Board of Secondary Education.

Desirable

Nil

Experience:-

Essential:-

Nil

Desirable:-

Nil

Pay Scale:-

Rs. 9300-34800+Grade Pay 4200/- Group: 'B'

Age Limit-

Not exceeding 30 years, Age Relaxation will be given as per table at para 6.

This post is identified suitable for PwD (VH& OH) candidates as per requisition of the user department.

R. No.

DI ADE/TRC/EDU./HQ/SDMC/2021 /I 040 Dt. 25/01/2021

"4. ELIGIBILITY CRITERIA:

... ..

(ii) The educational qualification, age, experience etc. as stipulated in advertisement shall be determined as on the closing date of submission of application."

"7. GENERAL INSTRUCTIONS FOR CANDIDATES

... ..

(viii) The educational qualification, age, experience and other eligibility conditions against the post shall be determined as on the closing date of online submissions of application. "

A perusal of the aforesaid reveals that the essential educational qualification prescribed for the aforesaid post included, inter alia, a two-year Diploma Programme in Special Education recognized by the Rehabilitation Council of India, in addition to other qualifications which are not relevant for the adjudication of the present case.

6. Respondent No.1 applied for the said post under the OBC category and appeared in the Tier-I written examination conducted by DSSSB on 17.10.2021. Thereafter, on 05.01.2022, the DSSSB uploaded on its official website the normalized marks obtained by the candidates who had appeared in the said examination. Respondent No.1 secured 85.54 marks and was provisionally shortlisted for the purpose of uploading his e-dossier. Subsequently, vide notice dated 26.05.2022, the DSSSB informed the candidates about deficiencies noticed in their respective e-dossiers and granted them an opportunity to rectify the same. Insofar as Respondent No.1 is concerned, he was specifically directed to upload the certificate and mark sheets in respect of the two-year Diploma in Special Education, completed prior to the cut-off date/closing date of the application form, i.e., 14.04.2021.

7. In continuation of the aforesaid notice, a further opportunity was granted to

the candidates vide communication dated 14.06.2022, reiterating the requirement to upload proof of having completed the two-year Diploma in Special Education prior to the cut-off date, i.e., 14.04.2021. However, Respondent No.1 failed to furnish the requisite proof demonstrating that he had completed the said Diploma as on the cut-off date. On the contrary, the material placed on record indicates that Respondent No.1 completed the two-year Diploma programme only on 10.06.2021, i.e., subsequent to the cut-off date.

8. In view thereof, the candidature of Respondent No.1 was rejected by the DSSSB vide communication dated 01.07.2022 on the ground that he did not possess the requisite educational qualification as on the cut-off date.

9. Aggrieved by the rejection of his candidature, Respondent No.1 approached the learned Central Administrative Tribunal by filing O.A. No. 1888/2022, seeking, inter alia, quashing of the rejection notice dated 01.07.2022 to the extent it pertained to him and a direction to the Petitioners to consider his candidature for appointment to the post in question.

10. The Tribunal, by way of the Impugned Order, allowed the said Original Application primarily on the following grounds:

i. that the Selection Board itself had granted an opportunity to the candidates to remove deficiencies vide notice dated 14.06.2022, and since Respondent No.1 had completed his Diploma in June, 2021, i.e., prior to the issuance of the said notice, his candidature ought to have been considered;

ii. that the eligibility of a candidate is liable to be assessed with reference to the date of examination; and

iii. that the delay in completion of the Diploma by Respondent No.1 was attributable to the COVID-19 pandemic, which constituted a mitigating circumstance warranting consideration.

CONTENTIONS OF THE PARTIES

11. Contentions of the Petitioners

11.1. Learned counsel representing the Petitioners submitted that the Impugned Order passed by the Tribunal is wholly unsustainable in law and contrary to the settled legal position governing determination of eligibility of candidates in recruitment processes. It was contended that the advertisement in question categorically stipulated that the eligibility criteria, including educational qualifications, were required to be fulfilled as on the cut-off date, i.e., 14.04.2021, and the said condition was binding on all candidates.

11.2. It was submitted that it is an admitted position on record that Respondent No.1 had not successfully completed the two-year Diploma in Special Education as on the cut-off date, inasmuch as he had not cleared one of the papers and was declared successful only upon declaration of the supplementary

result on 10.06.2021, i.e., subsequent to the cut-off date.

11.3. It was further submitted that mere appearance in an examination does not confer eligibility and that a candidate can be said to possess the requisite qualification only upon successful completion of the course and declaration of the result. In this regard, reliance is placed on the settled principle that the result of an examination does not relate back to the date of examination.

11.4. It was further contended that the Tribunal has erred in holding that the eligibility of a candidate is to be assessed with reference to the date of examination, which finding is directly contrary to the law laid down by the Supreme Court that eligibility conditions must be satisfied as on the last date for submission of applications.

11.5. It was also submitted that the deficiency notices issued by the DSSSB were only intended to afford an opportunity to candidates to furnish documentary proof of eligibility already possessed as on the cut-off date and could not, in any manner, be construed as permitting acquisition of qualification subsequent to the cut-off date. It was further submitted that the reliance placed by the Tribunal on the delay occasioned due to the COVID-19 pandemic is wholly misplaced, inasmuch as equitable considerations cannot override the express terms of the advertisement or the settled principles governing public employment.

11.6. It was further contended that permitting Respondent No.1 to be considered despite his ineligibility as on the cut-off date would result in grave prejudice to other similarly situated candidates who, being aware of their ineligibility, may not have applied at all, thereby violating the principle of equality enshrined under Article 14 of the Constitution of India.

12. Contentions of the Respondents

12.1. Per contra, learned counsel representing the Respondents supported the Impugned Order and contended that Respondent No.1 had pursued the two-year Diploma in Special Education for the academic session 2018-2020 and had substantially completed the course well prior to the cut-off date. It is submitted that the examinations pertaining to the said Diploma were also undertaken prior to the cut-off date.

12.2. It was submitted that the requirement under the advertisement was that the Diploma ought to have been "completed" prior to the cut-off date, and not that the certificate evidencing such qualification must have been issued before the said date. It was argued that Respondent No.1 had completed the academic course and had appeared in the requisite examinations before the cut-off date, and therefore, he ought to be treated as having possessed the requisite qualification.

12.3. It was further contended that the deficiency notices issued by the DSSSB, particularly the notice dated 14.06.2022, afforded an opportunity to the

candidates to cure deficiencies, and since Respondent No.1 had completed his Diploma in June, 2021, i.e., prior to the issuance of the said notice, the Petitioners were required to consider his candidature.

12.4. It was also submitted that the delay in declaration of the result of the supplementary examination, which was ultimately declared on 10.06.2021, was on account of circumstances beyond the control of Respondent No.1, particularly the disruption caused by the COVID-19 pandemic. It is argued that the respondent cannot be penalized for such delay.

12.5. It was further contended that the eligibility of a candidate ought to be assessed with reference to the date of examination, and not strictly with reference to the date of declaration of result, and in support of this submission, reliance is placed on the judgment of the High Court of Judicature at Madras dated 17.03.2023.

12.6. Reliance was placed upon the judgment of the Supreme Court in *Narender Singh v. State of Haryana* (2022) 3 SCC 286, to contend that a candidate ought not to be denied consideration on technical grounds, particularly where the deficiency is subsequently cured.

ANALYSIS & FINDINGS

13. This Court has carefully considered the submissions advanced on behalf of the parties and perused the material on record. Before adverting to the rival submissions, it would be apposite to examine the factual position with regard to the acquisition of the requisite educational qualification by Respondent No.1.

14. The record reveals that Respondent No.1 took admission in the two-year Diploma Programme in Special Education for the academic session 2018-2020. The first-year examination was conducted in July, 2019 and the result thereof was declared on 27.09.2019. It is not in dispute that Respondent No.1 failed in two theory subjects in the said examination. Thereafter, Respondent No.1 appeared in the supplementary examination for clearing the said subjects, which was conducted in December, 2019. However, as per the result declared in February, 2020, he was unable to clear one out of the two papers. It is further evident that Respondent No.1 appeared in the second-year examination in December, 2020.

15. The supplementary examination for clearing the remaining paper of the first year was initially scheduled to be held in January, 2021; however, the same was eventually conducted in March, 2021. The result of the said supplementary examination was declared on 10.06.2021, upon which Respondent No.1 was declared to have successfully completed the two-year Diploma Programme. It is, therefore, manifest that as on the cut-off date prescribed under the advertisement, i.e., 14.04.2021, Respondent No.1 had not been declared successful in the Diploma course and had not acquired the requisite qualification.

16. The advertisement, more particularly Clauses 4(ii) and 7(viii), unequivocally stipulates that the educational qualification, age, experience and other eligibility conditions are to be determined as on the closing date of submission of the application.

17. The Tribunal has erred in observing that the deficiency notice dated 14.06.2022 amounted to an extension of the cut-off date for determining eligibility. A plain reading of the said notice makes it abundantly clear that the candidates were merely afforded an opportunity to upload documents in proof of their eligibility already possessed as on the cut-off date. The notice specifically required the candidates to upload mark sheets in respect of the two-year Diploma in Special Education completed prior to the cut-off date/closing date of submission of the application form, i.e., 14.04.2021. Thus, the deficiency notice cannot, by any stretch of imagination, be construed as extending the cut-off date or permitting acquisition of qualification subsequent thereto. The finding returned by the Tribunal in this regard is, therefore, factually incorrect and legally unsustainable.

18. The sanctity of the cut-off date for determining eligibility in a recruitment process is required to be strictly maintained. This issue is no longer res integra and stands conclusively settled by a catena of decisions of the Supreme Court which consistently emphasize that certainty and uniformity in recruitment processes are paramount. In *Rakesh Kumar Sharma v. State of NCT of Delhi & Anr.* (2013) 11 SCC 58, the Supreme Court has categorically held that the eligibility of a candidate must be determined with reference to the last date prescribed for submission of applications and that the result of an examination does not relate back to the date of examination.

19. The aforesaid principle has been reiterated in *Rakesh Bakshi v. State of J&K* (2019) 3 SCC 511, wherein it has been held that a qualification acquired after the cut-off date cannot render a candidate eligible. In view of the aforesaid settled legal position, the eligibility of Respondent No.1 was required to be assessed strictly with reference to the cut-off date, i.e., 14.04.2021.

20. The Tribunal has further erred in holding that the eligibility is to be assessed with reference to the last date of examination, while placing reliance upon a judgment dated 17.03.2023 passed by the High Court of Judicature at Madras in *W.A. Nos. 608 and 609 of 2023 captioned The Registrar & Anr. v. S.Lakshmi & Anr.* The reliance placed on the said judgment is misconceived and wholly inapplicable to the facts of the present case.

21. In the said decision, the High Court was concerned with a situation where the candidate had already appeared in and completed the final examination prior to the relevant cut-off date, and the delay was only in the declaration of results and issuance of the certificate, which was held to be an administrative delay not attributable to the candidate. In those circumstances, it was held that the acquisition of qualification would relate

back to the date of the last examination.

22. The present case, however, stands on an entirely different footing. As noticed hereinabove, Respondent No.1 had not successfully cleared all the papers of the Diploma course as on the cut-off date and had, in fact, failed in one of the theory papers on more than one occasion. The requisite qualification was acquired by him only upon declaration of the result of the supplementary examination on 10.06.2021. Thus, this is not a case of mere delay in declaration of result, but a case where the candidate had not, in fact, acquired the essential qualification as on the cut-off date.

23. In view thereof, the principle laid down by the High Court of Judicature at Madras in *S.Lakshmi* (supra) is clearly distinguishable and cannot be applied to the facts of the present case. Moreover, the law laid down by the Supreme Court in *Rakesh Kumar Sharma* (supra) continues to govern the field, which unequivocally lays down that a candidate can be said to possess a qualification only upon successful completion of the examination process, which, in the facts of the present case, occurred upon declaration of the result. It is well settled that in case of any conflict, the law declared by the Supreme Court under Article 141 of the Constitution of India is binding and prevails over judgments of High Courts.

24. The Tribunal has also erred in placing reliance upon the delay occasioned due to the COVID-19 pandemic. It is evident from the record that Respondent No.1 had appeared not only in the supplementary examination held in December, 2019 but had also appeared in the second-year examination, and thereafter, in the supplementary examination conducted in March, 2021. In any event, the cut-off date prescribed in the advertisement was never extended.

25. The recruitment process itself was initiated and conducted during the subsistence of the pandemic, and a large number of candidates, i.e., as many as 6,653 candidates, participated in the examination. In such circumstances, the sanctity of the cut-off date cannot be diluted on the ground of delay in declaration of results, as the same would lead to uncertainty and arbitrariness in the recruitment process.

26. It is also not in dispute that Respondent No.1 had failed in one of the theory papers on two occasions, firstly in July, 2019 and thereafter in December, 2019, and was able to clear the same only upon declaration of the result on 10.06.2021. Consequently, Respondent No.1 cannot be said to have been in possession of the requisite qualification as on the cut-off date.

27. The reliance placed by learned counsel representing the Respondent No.1 upon *Narender Singh* (supra) is clearly distinguishable on facts. In the said case, the requirement pertained to submission of a 'NoObjection Certificate' from the employer, which was furnished at the stage of interview, and the Supreme Court found that no fault could be attributed to the candidate. In the present case, however, the issue pertains to non-possession of an essential educational

qualification as on the cut-off date, which goes to the root of eligibility.

28. As noticed hereinabove, Respondent No.1 had not successfully completed the Diploma course as on the cut-off date, and therefore, cannot claim parity with the facts of the aforesaid decision. Any relaxation in favour of Respondent No.1 would amount to rewriting the terms of the advertisement and would be violative of the principle of equality, inasmuch as similarly situated candidates who did not possess the requisite qualification as on the cut-off date may have chosen not to apply.

CONCLUSION

29. In view of the foregoing discussion, this Court is of the considered opinion that the Impugned Order passed by the learned Tribunal is unsustainable in law and is liable to be set aside.

30. Accordingly, the present Petition is allowed. The Impugned Order passed by the Tribunal in O.A. No. 1888/2022 is hereby quashed and set aside. The rejection of the candidature of Respondent No.1 vide communication dated 01.07.2022 is upheld.

31. The present Petition stands disposed of. The pending application also stands closed.