

Manju Bala Vs. Union of India and ors.

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Court : Delhi

Decided On : May-04-1994

Reported in : 1994IIIAD(Delhi)48; 54(1994)DLT537; 1994(29)DRJ485

Judge : D.P. Wadhwa and; D.K. Jain, JJ.

Acts : [Constitution of India](#) - Article 226

Appeal No. : Civil Writ Petition Nos. 4795, 4875, 4876 and 4877 of 1993

Appellant : Manju Bala;kumar Arjeet Kaur;pushp Lata;rekha Sidana

Respondent : Union of India and ors.;union of India and ors.;union of India and ors.;union of India and ors.

Advocate for Pet/Ap. : N.S. Dalal,; B. Babbar and; V.K. Shall, Advs

Judgement :

D.P. Wadhwa, J.

(1) These four petitions filed under Article 226 of the Constitution raise a common question. The petitioners in all these four petitions seek a writ of mandamus or any other writ or direction commanding the respondents to allow them to appear before the interview board constituted by the Staff Selection Commission for appointment of the petitioners to the post of Assistant Teachers in the Municipal Corporation of Delhi ('M.C.D.'for short). By an interim order, this Court directed that petitioners be

interviewed but their results be withheld in case the petitioners are selected till further orders. There are three respondents. First respondent is the Union of India in the Ministry of Home Affairs; the second is the Staff Selection Commission ('S.S.C.' for short); and third is the Municipal Corporation of Delhi. Principal respondent is the S.S.C., and the M.C.D., for whose requirement of Assistant Teachers the S.S.C. has undertaken the process, has merely stated that it was for the S.S.C. to recommend the appointments and to undertake the necessary steps for filling up the posts of Assistant Teachers.

(2) An advertisement as put in by the S.S.C. for conducting examination for selection to the post of Assistant Teachers in the M.C.D. The advertisement appeared in the Employment News dated 12/18 September 1992. The last date for receipt of the application forms from the candidates was 12 October 1992. The examination was to be held on 7 February 1993. Age limit for candidates was prescribed as 18-30 years as on 1 January 1993 but was relaxable in the case of certain categories. Educational qualifications were also prescribed as to who could apply for the post and it was mentioned that candidates who had yet to appear at the academic/certificate examination, or whose results had been withheld, or not declared on or before 1 January 1993 were not eligible. The contention of the petitioners is that this condition is arbitrary and in support of this submission reference was made to a Bench decision of this Court in *Kanta Rani and others v. Staff Selection Commission and others* : 39(1989)DLT330, where circumstances were similar as in the present case but for an earlier year. The petitioners therein had contended that in spite of the fact that last date for submission of applications was 10 October 1988, but it was provided that the candidates must possess the qualifications prior to 1 August 1988. The petitioner, though, acquired the qualifications after 1 August 1988 but prior to 10 October 1988. It was contended that the embargo placed by the S.S.C. was contrary to well recognised principles, and that there was no reasonable nexus between the objects sought to be hived and the cut off date. The Bench, it will appear, upheld the contention of the petitioners and also relied on certain earlier observations by another Bench in a similar matter. The Bench, therefore, directed that petitioners be called for interview. A direction was, therefore, issued to consider the petitioners for appointment to the post of Assistant Teachers in the M.C.D.

(3) The respondent-SSC has filed its counter-affidavit before us opposing the petition, and we may reproduce relevant portion of this counter-affidavit which is as under :-

'IN this writ petition, the petitioner has challenged the cut off date of 1.1.1993 fixed by the Respondent No.2 for making a person eligible to appear in the selection test of Assistant Teachers (Gen. & Urdu) and Nursery Teachers for the M.C.D. on the ground that this cut-off date is unreasonable and arbitrary and she should be declared as an eligible candidate for this selection in spite of the fact that her result of B.Ed. was declared by M.D. University, Rohtak on 15.1.93. The petitioner has been by virtue of ad-interim order of this Hon'ble Court, permitted to appear in the interview test. However, the result of the same has not been declared as yet. It may be pertinent to mention here that before 1987, the Staff Selection Commission viz. the Respondent No.2 had for the purpose of determination of educational qualification of a candidate, fixed the last date of application for a particular examination/interview/selection process, as the date of eligibility for appearing in that particular examination / interview/selection. However, since there were number of representations received from various quarters that this restricted the area of selection and moreover some. of the universities declare their results late, on account of this reason, the candidates, who otherwise would have eligible, are made ineligible on account of closure of the eligibility on the last date of application. In this context the entire matter was studied and a conscious decision was taken for determining the eligibility on educational qualification of a candidate. This was accordingly brought in line with the norms fixed regarding the determination of age of a candidate, by the Govt. of India, Department of Personnel & Administrative Reforms. The Govt. of India vide its Office Memorandum No. 42013/1/79-Estt(D) dated 4th Dec., 1979, fixed the following cut- 13 off dates for the purpose of determining the age of a candidate to appear in a particular examination : a) 1st January of the year, in which the examination is held, if the examination is held in the first half of the year and the b) 1st August of the year in which the examination is held (r)f the examination is held in the second half of the year. The cut-off date as prescribed above is being strictly applied in all the open Competitive examinations held by Staff Selection Commission since July, 1987 and this system is working smoothly. In the circumstances, it is not

considered necessary to make any change in the cut-off date.'

Coming back to the facts of the present case, the Respondent No.2 has accordingly fixed the eligibility conditions as on 1.1.1993 in case examination is held in the first half of a calendar Year and 1.8.1993 as the cut-off date in case the examination is held in the latter half of the calendar year. This has been done keeping in view the fact that some of the Universities declare their results late. This classification is reasonable and meets all the tests laid down under Art. 14 of the Constitution and can not be said to be arbitrary in any manner. For these reasons, the cut-off date of 1.1.1993 fixed by the Respondent No.2 is perfectly legal and justified and hence the petition deserves dismissal. It was also submitted that against the aforesaid judgment of this Court in Kanta Rani's case a Special Leave Petition was filed in the Supreme Court which passed the following order:-

'IN these circumstances, we decline to interfere in the present matter and dismiss the Special Leave Petition without expressing any opinion on the merits of the questions raised by the parties.'

It will, thus, appear to us that since the petitioners in the case of Kanta Rani had already been selected as Assistant Teachers, the Supreme Court, perhaps, did not interfere in the matter and again left the question open.

(4) We have considered the judgment of this Court in Kanta Rani's case in depth, but we express our respectful disagreement with the same. There is limit where the court should exercise its power of judicial review. The conduct of examination and fixing of date of eligibility should be best left to the authorities concerned. It is difficult to see how the condition of eligibility fixed by the S.S.C., that candidates who had yet to appear at the academic/certificate examination or whose results had been withheld or not declared on or before 1 January 1993 would not be eligible, is in any way arbitrary. A complete justification, to our mind, has been given as to how the cut off date has been fixed. If the results of certain universities where the examinations had been held much earlier and results not declared before 1 January 1993, it is difficult to see how the S.C.C. is to be blamed for that. As a matter of fact, when two dates, 1 January 1993 and 1 August 1993, had been fixed, it is to be expected that results of examination would be declared earlier to

these dates for a candidate to become eligible. In our considered view, the judgment of this Court in Kanta Rani's case needs reconsideration. We, therefore, direct that these petitions be placed before Hon'ble the Chief Justice for him to constitute a larger Bench. Since the issue is likely to arise every year, it will be appropriate if the Bench is constituted at an early date.

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