



GOVERNMENT OF NCT OF DELHI
Delhi Subordinate Services Selection Board
FC-18, INSTITUTIONAL AREA, KARKARDOOMA,
DELHI-110092
Website: www.dsssb.delhigovt.nic.in

F.No.81/Rectt/Health posts/DSSSB/Int.Cell/16-17/386

Dated: 01/05/2018

ORDER

This order shall dispose of the representation of Sh. Satender Kumar, dated 13.02.2018 in compliance of the directions of Hon'ble CAT order dated 16.03.2018.

2. The applicant Shri Satender Kumar, Roll No.12002198 has applied for the post of Assistant Malaria Inspector, Post Code-21/14 in the Municipal Corporation of Delhi under UR category. As per the advertisement No.01/14, the prescribed age limit is Between 18-27 years (relaxable for SC/ST-05 yrs, OBC-03 yrs, PH-10 yrs, PH & SC/ST-15 yrs, PH & OBC-13 yrs, Department candidates up to 40 yrs, SC/ST-05 yrs) and the **crucial date of determining the eligibility is fixed as 27.02.2014**, i.e. the closing date of receipt of applications.

3. It has been clearly mentioned in para 8(xiv) of the advertisement No.01/14 that the educational qualification, age, experience and other eligibility conditions against the post shall be determined as on the closing date of online submission of application. Thus the candidates who were born earlier than 28.02.1987 are not eligible for consideration.

4. The Board processed the results as per the eligibility conditions laid down in the Recruitment Rules and Advertisement No.01/14.

5. As on the closing date of receipt of applications, Sh. Satender Kumar has become overage by 02 years & 02 months being his date of birth as 01/01/1985. Accordingly, his candidature was rejected on the ground being 'overage'.

6. Aggrieved at the rejection of his candidature, Sh. Satender Kumar filed original application vide OA No.1119/2018. The Hon'ble CAT vide order dated 16.03.2018 has directed the respondents as under:-

"2. Now, learned counsel for the applicant states that he would be happy and satisfied if a direction is given by this Tribunal to decide the aforesaid representation within a stipulated time frame.

3. Accordingly, taking into consideration, limited prayer of the applicant to decide representation, the respondents are directed to take a decision on the aforementioned representation dated 13.02.2018 by passing a detailed reasoned and speaking order within a period of six weeks from the date of receipt of a certified copy of this order."

7. In compliance of the Hon'ble CAT order dated 16.03.2018, the representations of Shri Satender Kumar has been considered wherein he claimed age relaxation under the category of Departmental candidate and cited the judgment of Hon'ble High Court in the matter of DSSSB Vs. Rathi in support of his claim.

8. The Board strictly follow the instructions of Department of Personnel & Training (DOPT), Govt. of India regarding relaxation in upper age limit allowed to various categories of government servants and the said orders/instructions of DOPT are incorporated in the advertisement for notification of vacancies.

9. The instructions issued by Government of India, Department of Personnel & Training O.M. No.15012/1/88-Estt.(D) dated 20.05.1988 regarding relaxation in upper age limit in direct recruitment for Group 'C' posts to Departmental candidates is as under:-

"The Staff Side of the National Council suggested that the age limit for the Departmental candidates for appointment to Group 'C' and 'D' posts should be liberalised. They contended that in the case of Group 'D' employees there is no scope for promotion in the normal course and there is justification to increase the age limit at least for the Government servant to compete for higher grades by direct recruitment. The matter has been carefully examined and it has been decided that the departmental candidates may be allowed to compete along with candidates from the open market up to the age of 40 years for Group 'C' posts in the case of general candidates and 45 years in the case of Scheduled Castes and Scheduled Tribes. This concession will be subject to the usual condition that the direct recruitment posts in Group 'C' posts are in the same line or allied cadres and a relationship could be established that services rendered in the posts will be useful for efficient discharge of the duties in the other categories of posts."

10. The judgment dated 15.11.2011 of Hon'ble High Court of Delhi in WP(C) No.1641/2011 in the matter of DSSSB & Anr. Vs. Preeti Rathi & Ors. has been examined. The Hon'ble High Court in para-13 of the judgment has opined as under:-

*"13. In the rules, **nowhere the expression "departmental candidates" has been defined.** It has to be, in these circumstances, assigned natural connotation. A departmental candidate would be the candidate who is not an outsider but is already working in the concerned department namely MCD in the instant case....."*

11. The said judgment of Hon'ble High Court dated 15.11.2011 could not be made applicable in the instant case as the expression "departmental candidate" has been clearly defined in para No.6 (6) of the advertisement No.1/14 under the heading 'Age Relaxation' that "**Departmental candidates with at least three years continuous service in Central Govt./Govt of Delhi are eligible for grant of age relaxation upto 05 years for Group 'B' posts and upto 40 years of age (45 years for SC/ST, 43 years for OBC) for Group 'C' posts.**"

12. Keeping in view the above-stated position and also the fact that the applicant in the instant OA, Sh. Sanjay Kumar has worked/has been working in Municipal Corporation of Delhi on contractual basis and not covered under the definition of 'Departmental candidates' as he has not served three years continuous service in Central Govt./Govt. of Delhi, he is not eligible for grant of relaxation in age.

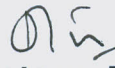
11. This issues with the approval of Competent Authority and in compliance of the directions of Hon'ble CAT.

12. Let this order be served upon Sh. Satender Kumar.


Dy. Secretary, DSSSB

Sh. Satender Kumar,
S/o Sh. Amar Singh,
R/o 492/1, Mohalla Heera Lal,
Mawana, Post Mawana District
Meerut, Uttar Pradesh

- ✓ 1. **Sr. System Analyst** with the request to upload the order on the website of the Board
2. Notice Board


Dy. Secretary, DSSSB