

2025 LiveLaw (SC) 1168

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
J.K. MAHESHWARI; J., VIJAY BISHNOI; J.
November 10, 2025

SLP (C) No. 26487 of 2023
KAILASH PRASAD *versus* UNION PUBLIC SERVICE COMMISSION & ORS.

SLP (C) No. 700 of 2024
SEEMA & ANR. *versus* UNION PUBLIC SERVICE COMMISSION & ORS.

SLP (C) No. 10458 of 2024
SAROJ DEVI MEENA *versus* UNION PUBLIC SERVICE COMMISSION & ORS.

Service Law – Recruitment for post of Principal – Determination of eligibility and experience cut-off date – Effect of deferred advertisement – Supreme Court set aside the High Court's judgment and restored the Central Administrative Tribunal's (CAT) order, holding that candidates who acquired the requisite 10 years of teaching experience by the extended closing date of a re-notified advertisement are eligible - Observed that since the initial indicative advertisement was deactivated immediately due to COVID-19 and the selection process had never effectively commenced, the eligibility must be determined as per the subsequent detailed advertisement. [Paras 11]

Conflict in Advertisement Clauses – Interpretation of 'Eligibility in every respect' – Where a "Notice" in a re-notified advertisement claims eligibility conditions from an earlier deactivated advertisement remain unchanged, but Clause 9(b) of the same detailed advertisement explicitly states that eligibility "in every respect" shall be determined by the closing date of the Online Recruitment Application, a conjoint reading reveals a clear divergence - Held that the eligibility date must be the actual closing date of application submission as prescribed in the detailed advertisement- Noted that the UPSC's note-sheets failed to provide any justification for retaining an old cut-off date from a deactivated advertisement, especially when the selection portal was not even functional during the initial period - Appeals allowed. [Paras 7-13]

[Arising out of impugned final judgment and order dated 01-11-2023 in WP(C) No. 13576/2023 passed by the High Court of Delhi at New Delhi]

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For Respondent(s): Mr. Hrishikesh Baruah, AOR Mr. Kshitij Singh, Adv. Mr. Utkarsh Dwivedi, Adv. Mr. Yashaswy Ghosh, Adv. Ms. Pragya Agarwal, Adv. Mr. Ranjit Kumar Sharma, AOR Mr. Mr. Kundan Kumar, Adv. Mr. Vikramjeet Banerjee, A.S.G. Mr. Mukesh Kumar Maroria, AOR Mr. Rajan Kumar Chourasia, Adv. Mr. Tanmay Mehta, Adv. Mr. Piyush Beriwal, Adv. Mr. Raman Yadav, Adv.

ORDER

1. Leave granted.
2. The present appeals arise out of judgment dated 01.11.2023 passed by High Court of Delhi in Writ Petition (C) No. 13576 of 2023 and batch, thereby setting aside the common order dated 15.05.2023 of the Central Administrative Tribunal (in short 'CAT') in Original Application No. 3724 of 2022 and batch, wherein appellants sought directions for

consideration for appointment to the post of 'Principal' under the Directorate of Education, Government of National Capital Territory of Delhi in terms of advertisement no. 07/2021. The issue relates to extension of cut-off date for determination of experience and qualification of eligible principles in terms of deferred advertisement.

3. The Union Public Service Commission (in short '**UPSC**') *vide* advertisement dated 04.04.2021 invited applications for 363 posts of Principals. It was merely an indicative advertisement, as per which last date of submission was 13.05.2021. The details of essential qualification, eligibility criteria etc. was mentioned to be displayed in a separate detailed advertisement on the UPSC's website. However, concerning the rise in COVID-19 cases, the advertisement was deferred *vide* online notification dated 25.04.2021, and the advertisement was not available. Thereafter, UPSC re-notified the detailed advertisement on 10.07.2021, wherein following essential qualification for the post in question were mentioned -

"Essential Qualifications:

(A) Educational:

(i) Master's Degree from a recognized University/Institute,

(ii) Bachelor of Education from a recognized university/institute; and (B) Experience:

Ten years' experience of teaching (Vice Principal / Post Graduate Teacher/ Trained Graduate Teacher) in a recognized High School / Higher Secondary School / Senior Secondary School / Intermediate college."

4. In the re-notified advertisement, the last date of submission of form was extended to 29.07.2021. The appellants before this Court are the candidates who acquired eligibility of 10 years' experience of teaching on 29.07.2021, i.e., after the last date of submission of form prescribed in the initial advertisement, but prior to the last date of submission of form as prescribed in the re-notified advertisement.

5. Being aggrieved, the appellant-Kailash Prasad and batch of similarly situated applicants approached CAT, which *vide* interim order permitted them to participate in the selection process. Written examination was conducted, results were declared and appellants were found eligible for interview, however, in the list as drawn, their names were excluded on the pretext of lack of experience of 10 years as per renotified advertisement. Appellant challenged the list and prayed for consideration of his case. During the pendency of the litigation, results were declared, keeping 13 seats vacant. The result of appellant was also withheld. Subsequently, CAT allowed the batch of original applications *vide* common order dated 15.05.2023 directing UPSC to declare the results of the applicants and take further necessary steps in accordance with law. On challenge before the High Court by UPSC, the order passed by CAT was set-aside *vide* impugned, hence present appeal.

6. Heard the counsels for the parties at length and perused the material. It is not in dispute that the initial advertisement was notified on 24.04.2021, citing the last date of submission of the application form as 13.05.2021. As per the said advertisement, the crucial date for determining the 'age limit' shall be the closing date for submission of online application. So far as date of determination of other qualifications are concerned, the advertisement is silent. It is pertinent to mention that, the advertisement further mentions that the 'detailed advertisement along-with Instructions and Additional Information to candidates for Recruitment by Selection has been displayed on Commission's Website'. However, in wake of COVID-19 cases, such advertisement was deferred the very next day, and no advertisement was available on the website.

7. Subsequently, detailed advertisement was re-notified by UPSC on 10.07.2021, extending the last date of submission to 29.07.2021. As per Clause 9(b) therein, dealing with “*Other Information/Instructions*”, the date of determining the eligibility of all candidates in ‘every respect’ shall be the closing date for submitting the Online Recruitment Application on the website. It is to be noted that, on deactivation of the portal/website after publication of the initial advertisement, the process could not be initiated and there was no advertisement available on the website. After a while, a fresh notice was issued by UPSC on 10.07.2021, whereby the same advertisement was re-published. Since the details of said notice are relevant, they are reproduced below for ready reference:

“NOTICE

It is for information of all concerned that the recruitment process, for recruitment to (363) three hundred sixty three [208 Male & 155 Female] vacancies for the post of Principal in the Directorate of Education, Education Department, Government of NCT of Delhi advertised vide Commission’s ‘Indicative Advertisement No. 07/2021 published in the Employment News on 24-04-2021 with closing date as 13-05-2021, has now been reactivated’. The original advertisement is reproduced below, earlier deactivated in the Month of April, 2021 the wake of sharp rise in the infected case of covid-19 pandemic.

2. *That the Detailed Advertisement No. 07/2021 for the aforesaid vacancies, along with instructions and additional information to the candidates for recruitment by selection has been uploaded on Commission’s website as well as ORA module on 10-07-2021.*

3. *The willing and eligible candidates may apply on-line on or before 29-07-2021 (Print out of the application may be taken by 23:59 hrs on 30-07-2021). However, the eligibility and other conditions as mentioned in the earlier Advertisement No. 07/2021 published on 24-04-2021 for the vacancies remain unchanged.”*

8. On perusal of the same, it is clear that the willing and eligible candidates were asked to apply on or before 29.07.2021 and their applications may be taken up to 23.59 p.m. on 30.07.2021. However, the eligibility and other conditions as mentioned in the initial advertisement No. 7/21 published on 24.04.2021 remained unchanged, meaning thereby the eligibility of the candidates for the post in so far as experience of ten years is concerned, shall be reckoned as on the last date of submission of form given in the initial advertisement. But at the same time, if the other condition under Clause 9(b) of the advertisement is seen, which quotes as thus:

“9(b) – The date for determining the eligibility of all candidates in every respect shall be the closing date for submitting the Online Recruitment Application on the website <http://www.upsconline.nic.in>.”

A conjoint reading of the notice appended to the detailed advertisement and Clause 9(b) contained therein is indicative of the fact that there is clear divergence in cut-off date for the purpose of determining the eligibility of applicants in so far as ten years’ experience is concerned.

9. On plain reading of ‘Clause 9 – Other Information/Instructions’, it is clear that the date for determining the eligibility of all candidates in every respect, shall be the closing date for submitting the online recruitment application. This fact has been disputed by the UPSC on the pretext that the said eligibility shall be considered in terms of the initial notification issued on 24.04.2021. In our considered opinion, such argument is completely fallacious and not acceptable, for the reason that, when the case was taken up for hearing on 27.01.2025, this Court passed a detailed order and sought following information from the UPSC -

“3) During hearing, arguments and counter arguments were advanced. However, we want to ascertain the following facts:

(i) What is the date of notifying the advertisement on the UPSC website which was notified in Employment Exchange on 10.07.2021?

(ii) Whether the subsequent online notification issued (at Annexure CA-4 attached at page 28 of the counter affidavit in connected case (SLP (C) No. 700/2024)) is on the same online website and was this published in the employment news along with main Advertisement dated 10.07.2021 and both are uploaded on same date?

(iii) The relevant note-sheets for prescribing the qualification as on 13.05.2021 be also placed.”

10. In furtherance to the aforesaid order, UPSC has filed the affidavit annexing therein the note-sheets dated 20.04.2021 and 10.06.2021. The note-sheet dated 20.04.2021 indicates in the wake of sharp rise in COVID-19 cases, as a precautionary measure, it was decided to not to upload/display the detailed advertisement on the UPSC’s website as scheduled, and it be done on a later date in due course. Perusal of note-sheet dated 10.06.2021 reveals that it only provided for republication of the detailed advertisement and activation of the portal considering the improving conditions of COVID-19 surgency. It further provided that candidates be given 20 days’ time to apply with the same eligibility conditions as mentioned in the initial advertisement. It is pertinent to note that the affidavit produced along-with the note-sheets do not specify what was the reason to accept the eligibility as on 13.05.2021 as mentioned in the initial advertisement and not in terms of Clause 9(b) of the detailed advertisement which provided for determination of eligibility as on the closing date for submission of the online recruitment application on the website.

11. Regarding query No. 2, the UPSC has stated that the subsequent online notification was published on the same website. As noted earlier, the UPSC’s position is that the eligibility cut-off date specified in the initial advertisement should be followed, as it was reiterated in the detailed advertisement dated 10.07.2021. However, since no reasons have been provided in the note-sheets for retaining the same cut-off date, especially when the detailed advertisement could not be uploaded by UPSC after the initial one, we cannot accept this justification. In our view, candidates who acquired the required ten years of experience between the last date for submitting applications under the initial advertisement and the last date under the subsequent detailed advertisement would be eligible and cannot be disqualified.

12. Further, we fail to understand how the High Court has accepted the stand of the UPSC while dealing with the issue, especially in paragraph 15 and 23, when necessary material was not even on record. The queries put forth by us were to clarify the actual position and to examine the pleadings made before the High Court. Otherwise, there was no justification for determining a candidate’s eligibility with reference to an earlier advertisement that was deactivated on the very next day and for which the selection process had never commenced.

13. In view of the above discussion, we are constrained to hold that the stand taken by the UPSC is completely misplaced and cannot be accepted. Accordingly, the appeals are allowed. The order of the High Court stands set-aside, restoring the order passed by Central Administrative Tribunal. The appellants who have participated in the process of selection, their result be declared and if they found in merit, appointment on the seats kept vacant for them be granted. The needful be done within a period of two months from the date of uploading of this order.