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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 8755/2023 & CM APPL. 46277/2025

K.K. MIGLANI

.....Petitioner

Through: Petitioner in person

versus

GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Dhruv Rohtagi, Panel Counsel for
GNCTD, along with Ms. Chandrika
Sachdev and Mr. Dhruv Kumar, Advs.

CORAM:

HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

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05.08.2025

1. We have heard party in person who is seeking directions against respondent to consider his claim for appointment to the panel of arbitrators in accordance with provisions of Section 71(2) of the *Delhi Co-operative Societies Act, 2003* (**'the Act'**), read with Rule 87 of the *Delhi Co-operative Societies Rules, 2007* (**'Rules of 2007'**).

2. It is the case of petitioner that he has previously worked as an arbitrator by virtue of being a retired government servant.

3. The age of retirement for a government servant in the National Capital Territory of Delhi is *60 years*.

4. According to him, *Rule 87 of Rules of 2007*, contemplates the procedure and manner to be followed for appointment of a person as an



arbitrator. He contends that the criteria of cut-off age of 70 years is nowhere prescribed in the statute or the rules framed there under, and in such an eventuality, it must be held that the condition of the cut-off age of 70 years is unreasonable.

5. As against above, counsel for respondent draws our attention to the language of sub-section (2) of Section 71 of the Act, which provided for *method, manner of selection, appointment of arbitrator, their qualifications, terms and conditions of appointment and fees payable to them shall be prescribed under the rules.*

6. He further contends that *Rule 87 of Rules of 2007* deals with appointment of arbitrators, and *sub-rule (2) of Rule 87* specifically provides that the conditions (a) to (c) in *sub-rule (2) of Rule 87* may be followed or considered in the matter of appointment of arbitrator.

7. It is the contention of learned counsel for respondent that the criteria of age limit of 70 years was fixed by the authority in exercise of powers conferred under sub-section (2) of Section 71, given that large number of applications were received. It is claimed that for shortlisting purposes, the Selection Committee decided to adopt the criteria of cut-off age of 70 years.

8. *Prima facie*, upon a plain reading of provisions of sub-section (2) of Section 71 and *sub-rule (2) of Rule 87*, we are of the *prima facie* view that it is the statute which permits the retired government servants to be appointed as arbitrators. Such government servant is bound to be above 60 years of age.

9. The aforesaid condition appears to have been incorporated in the statute with the intent to have the benefit of work-experience of a retired government servant who has technical know-how about the statutory provisions and its practical applicability.



10. In such an eventuality, the only issue which in our opinion warrants consideration is whether the cut-off age of 70 years, which is being adopted by the Selection Committee as provided under Section 71 of the Act, could be said to be unreasonable and stands to the scrutiny of Article 14, 15 and 16 of the Constitution of India.

11. Since a legal issue is involved in the matter, we deem it appropriate to appoint *Mr. Akshay Makhija*, Senior Advocate, to assist us in the present matter.

12. We direct the Registry of this Court to provide the entire set of papers of the present proceedings to *Mr. Makhija*. Let notice of the Court be issued to him, returnable on 08th August 2025.

13. Order be uploaded on the website of this Court.

NITIN WASUDEO SAMBRE, J

ANISH DAYAL, J

AUGUST 5, 2025/sky/bp