

GAHC010103382024



2024:GAU-AS:12705-DB

**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : I.A.(Civil)/1524/2024**  
**In Review Pet. No.5416/2024 (Filing Number)**

RANJAN SINGHA  
S/O LATE LAKHI SINGHA, R/O H/NO. 31, SATGAON MILANPUR, MANIPURI  
COLONY, MILIJULI PATH, POST- UDAYAN VIHAR, DIST.- KAMRUP (M),  
GUWAHATI 781171, ASSAM.

VERSUS

1.THE STATE OF ASSAM,  
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM, JANATA  
BHAVAN, DISPUR, GUWAHATI- 06.

2:COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM  
ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT  
JANATA BHAVAN DISPUR GUWAHATI -06.

3:PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM  
PERSONNEL (B) DEPARTMENT  
JANATA BHAVAN DISPUR GUWAHATI-06.

4:SECRETARY, ASSAM PUBLIC SERVICE COMMISSION  
JAWAHAR NAGAR SIX-MILE KHANAPARA GUWAHATI -22.

5:UNDER SECRETARY, ASSAM PUBLIC SERVICE COMMISSION  
JAWAHAR NAGAR SIX-MILE KHANAPARA GUWAHATI-22.

6:DEPUTY SECRETARY, ASSAM PUBLIC SERVICE COMMISSION  
JAWAHAR NAGAR, SIX-MILE KHANAPARA GUWAHATI-22

For the Applicant : Mr. H. Betala, Advocate.

: Mr. D.K. Bhuyan, Advocate.

For the Respondent(s) : Mr. D.K. Sarmah, Additional Senior Government Advocate,  
Assam for respondent Nos.1 & 3.

: Ms. M.M. Katakey, Standing Counsel, Animal Husbandry and Veterinary Department for respondent No.2.

: Mr. T.J. Mahanta, Senior Advocate/Standing Counsel, APSC assisted by Ms. P. Sarma, Advocate for respondent Nos.4, 5 & 6.

– BEFORE –

**HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI**  
**HON'BLE MR. JUSTICE KAUSHIK GOSWAMI**

**16.12.2024**

*(Vijay Bishnoi, CJ)*

The matter comes upon for consideration of the Instant Interlocutory Application [I.A.(Civil) No.1524/2024], preferred on behalf of the applicant, under Section 5 of the Limitation Act, 1963, with a prayer to condone the delay of 174 days occasioned in filing the connected review petition.

**2.** It is stated that the facts, which have been mentioned in the connected review petition, came to be known to the applicant after passing of the judgment and order dated 19.10.2023 passed by the Division Bench of this Court in WA No.358/2023, whereby the writ appeal preferred by the applicant was dismissed.

**3.** It is stated that the State had non-suited the applicant on the ground that no relaxation in age was provided to the OBC candidates. However, later on, the applicant has discovered that during the relevant period, the State Government had granted age relaxation benefit to OBC candidates in various recruitment processes including that of the Veterinary Department.

**4.** Learned counsel for the applicant has submitted that since the information which is relevant and important, is received by the applicant only after filing application through RTI, the delay occasioned in filing the connected review petition, may kindly be condoned.

**5.** While taking into consideration the instant Interlocutory Application, with a prayer to condone the delay of 174 days in filing the connected review petition, we have also examined the matter on merits.

**6.** The applicant applied for recruitment, pursuant to the advertisement No.1/2018, dated 17.02.2018, issued by the Assam Public Service Commission (hereinafter to be referred as "APSC") from eligible candidates for 113 Class-II Gazetted (Junior) posts of Veterinary Officer/Block Development Veterinary Officer under the Animal Husbandry and Veterinary Department as well as for various other posts under the different departments of the Government of Assam. The application of the applicant was rejected by the APSC on the ground that he had crossed the maximum age limit on the last date of submission of the application pursuant to the aforesaid advertisement.

The applicant challenged the said rejection by the APSC by way of filing a writ petition, being WP(C) No.6314/2018, wherein the State took a stand that the candidates of OBC category were not been treated as candidates of reserved category and therefore, the age relaxation of 3(three) years provided for the reserved category was not extended to the applicant and other similarly situated persons.

**7.** The learned Single Judge, after taking into consideration the stand of the respondent State as well as the APSC, dismissed the aforesaid writ petition vide impugned order dated 01.06.2023.

**8.** Being aggrieved with the same, the applicant preferred a writ appeal, being WA No.358/2023, which was also dismissed by the Division Bench of this Court, while observing that since the OBC category candidates to which the applicant belongs do not fall under the reserved category and therefore, he is not entitled to any age relaxation in the recruitment in question.

**9.** The Division Bench also observed that having participated in the selection process without any protest on the aspect of upper age limit as provided in clause 6 of

the advertisement in question, the appellant cannot be allowed to take U-turn and he ought to be given age relaxation beyond what is provided in the advertisement.

**10.** Learned counsel for the applicant has submitted that after the dismissal of the writ appeal, the applicant moved an application under the RTI to ascertain whether during the relevant period, the benefit of age relaxation was granted to the OBC candidates or not. It is submitted that as per the information supplied to the applicant under the RTI, it is clear that the benefit of age relaxation to the OBC candidates had been expanded to in various recruitment processes including that of recruitment in the Animal Husbandry and Veterinary Department. Learned counsel for the applicant has submitted that since it is a discovery of a new and important fact, this Court should take into consideration the above fact and may allow the Interlocutory Application as well as the review petition preferred on behalf of the applicant.

**11.** It is contended that the applicant is being subjected to discrimination because the similarly situated persons have already been granted the benefit of age relaxation whereas the APSC has denied the said benefit to the applicant illegally.

**12.** Having heard the learned counsel appearing for the applicant, we are of the view that the applicant has failed to make a case either in the connected review petition or in the application for condonation of delay that the discovery of the new and important fact of evidence was not within his knowledge despite exercising due diligence. The facts which the applicant has now attempted to bring on record were very much in existence and it is not the case of the applicant that he was prevented from collecting those facts during the pendency of the writ petition or the writ appeal before this Court.

**13.** Since the applicant has failed to satisfy us that a new and important fact was not placed before the Court despite exercising due diligence, we are unable to grant review of the impugned order dated 19.10.2023 passed by the Division Bench in WA

No.358/2023. As a matter of fact, by filing the connected review petition, the applicant is attempting to argue the matter on merits again which is certainly out of the scope of the review jurisdiction.

**14.** In view of above discussions, this Interlocutory Application for condonation of delay as well as the connected review petition, which is yet to be registered, is dismissed.

**JUDGE**

**CHIEF JUSTICE**

**Comparing Assistant**