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HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 227 of 2015**

- Praveen Kumar Agrawal, Aged-42 years, S/o Shri Nand Ram Agrawal, R/o Mahamaya Road, Ambikapur, P.S. - City Kotwali, Ambikapur, District - Sarguja (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh Through-its Secretary, Department of General Administration Mantralaya, Mahanadi Bhawan, Naya Raipur
2. Chhattisgarh Public Service Commission Through-its Secretary, H.Q. - Shankar Nagar Road, Raipur (C.G.)

---- Respondents

For Petitioner : Shri RK Kesharwani, Advocate.
 For Respondent/State : Shri YS Thakur, Deputy Advocate General.
 For Respondent No.2 : Shri Ashish Shrivastava, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****23/04/2015**

1. The petitioner has preferred this writ petition seeking direction to the respondents to grant him age relaxation of 2 years on the ground of he being entitled to the said benefit as green card holder. Relaxation is claimed by the petitioner as he has desired to participate in the State Service Examination, 2014 for which an advertisement was issued on 24.12.2014.
2. The State Government by a notification dated 21.6.2013 has declared that in all recruitments in the State, calculation of age for the purpose of fixing maximum and minimum age requirement shall be as on the first January of

the year wherein advertisement is issued. Accordingly, in Clause-8 of the present advertisement it is provided that the cut off date for calculation of maximum and minimum age including the age relaxation shall be calculated as on 1.1.2014.

3. Admittedly, as on 1.1.2014, the petitioner is more than the maximum age limit fixed for the subject recruitment. Therefore, by this petition, he is claiming benefit of age relaxation of 2 years on the ground that the petitioner being green card holder, is entitled to benefit of age relaxation in view of the State Government notification dated 11.1.1985, which has been adopted in the present State of Chhattisgarh.
4. In the return filed by respondent No.2, copy of notification dated 10.10.2014 has been annexed wherein the State of Chhattisgarh has decided to withdraw age relaxation granted to the candidates on the basis of green card with effect from 30th July, 2014.
5. Learned counsel for the petitioner would argue that since calculation of age including the age relaxation is to be made on 1.1.2014 and on the said date the circular dated 10.10.2014 was not in existence, the petitioner is entitled to age relaxation of 2 years. He would submit that not giving benefit of age relaxation of 2 years to the petitioner amounts to giving retrospective operation to the State Government's decision dated 10.10.2014. He would also submit that the petitioner became green card holder in 2012 and at that time the benefit of age relaxation was available to green card holders, therefore, the same cannot be withdrawn.
6. Per contra, learned counsel for the respondents would submit that calculation of age in view of the State Government's notification dated 21.6.2013 has to be made as on the first January of the year in which

advertisement for recruitment is issued. However, any benefit available to a candidate is to be considered on the strength of law/provision existing on the date of advertisement.

7. The benefit of green card holder is available to a candidate on the strength of the State Government's notification issued by the erstwhile State of MP on 11.1.1985 which was adopted by the State of Chhattisgarh and the same continued till 10th October, 2014 when the said facility/benefit of age relaxation on the basis of green card was decided to be withdrawn with effect from 30.7.2014. If the petitioner's contention is allowed, then there will be two categories of persons who have undergone sterilization operation and have acquired green card; one category of persons would be such who have acquired green card on or before 30.7.2014 and the other category would be those who have acquired the certificate after the said date. The first group of green card holders would get the benefit of age relaxation whereas the second group of persons would not get the said benefit, therefore, the same would amount to discrimination between the two groups having similar certificate. Applying the circular dated 10.10.2014 for all recruitments for which advertisement has been issued after the relevant date provides uniformity and level playing field to all such candidates irrespective of the fact as to whether they have acquired green card before or after the relevant date. As a matter of fact, allowing the petitioner to avail the benefit of green card despite the said facility having been withdrawn would amount to not giving effect to the State Government's circular even though the same is applicable for the subject recruitment.
8. There is one more reason why the petitioner's contention is not acceptable inasmuch as if all the green card holders who have acquired the certificate prior to issuance of a particular advertisement are allowed, then in all such

recruitment, relaxation would be granted de hors the State Government's decision. It is settled law that the writ Court cannot issue mandamus to statutory authorities to act contrary to the provisions which govern them. A provision or arrangement may be declared unconstitutional or illegal but by a process of interpretation, the effect of the provision cannot be nullified so as to grant the benefit to a particular class of persons by taking them out of the purview of the said notification when the said notification factually applies to them.

9. Reference to cut off date of 1.1.2014 in para-8 of the advertisement by including age relaxation also would mean that if a person is otherwise entitled to such relaxation in accordance with the existing provision, the same shall be calculated as on 1.1.2014 but where relaxation itself has been withdrawn as on the date of issuance of advertisement, mere reference to calculation of age relaxation on the cut off date would not make the petitioner covered and entitled for the benefit of green card which already stands withdrawn in the State.

10. For the foregoing, the writ petition being devoid of any substance deserves to be and is hereby dismissed.

J U D G E

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