

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION No. 599/2015.

Ashish Lalitkumar Sarda and another

-VERSUS-

Dr. Punjabrao Deshmukh Krishi Vidyapeeth, Akola

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

**CORAM : B.P.DHARMADHIKARI &
S.B.SHUKRE, JJ.**

DATE : MARCH 17, 2015.

Heard Shri B.G. Kulkarni, learned Counsel
for the petitioners and Shri A. Sambre, learned
Counsel for respondent.

Short question is – Whether petitioners
can be given benefit of age relaxation in terms of
advertisement dated 17.07.2014 ?

Employment of petitioners in the college
affiliated with respondent is not in dispute. Learned
counsel for the petitioners submits that if petitioners
are given the said benefit either under clause 4 or 5 of

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advertisement dealing with age relaxation, they become eligible and can participate in the selection process.

Shri Sambre, learned counsel for respondent submits that entitlement of petitioners can be considered only under clause 5, and as they are not working in aided college, clause 5 is not applicable. He submits that there is no challenge to the advertisement and hence, petition is without any substance.

The advertisement is to fill in posts of Senior Research Assistant and Junior Research Assistant. The maximum age for petitioners is 33 years. The age relaxation has been dealt with by the State Government in its circular dated 01.11.2003. Its copy is made available to the court during hearing. Copy is also served upon the learned counsel for the petitioner. The State Government has explained that maximum age limit + the required experience, can be considered to be the relaxable limit and accordingly the maximum age can be relaxed. Here advertisement does not show need of any experience.

In so far as the contention that petitioners

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fall in clause 4 of the relaxation clause in the advertisement is concerned, we find that the said clause speaks of employees working with the respondent University or with other Agricultural Universities in the State of Maharashtra. For them the maximum age prescribed is 50 years. Thereafter clause 5 specifically deals with employees working with the State Government, Central Government or Semi-Government Institutes. It is also accompanied with heading which reads “Educational Institutes receiving grant-in-aid from State Government.”

The principles of interpretation which needed to be applied in such situation is well settled. This Court has to avoid any overlapping in clause 4 as well as clause 5 and any incongruity also needs to be discouraged. Thus, harmonious construction and reading is called for. If the colleges working under University i.e. affiliated to University are allowed under Clause 4, express mention thereof in clause 5 may become irrelevant. In that event, the college whether aided or unaided, affiliated to the respondent may qualify for inclusion in clause 4. If this interpretation is accepted, emphasis on receipt of

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government grant in clause 5 becomes irrelevant and gets defeated.

Therefore, we find that the petitioners entitlement cannot be considered under clause 4. It needs to be evaluated only in clause 5. Clause 5 expressly stipulates College which are receiving grant-in-aid from State Government. Admittedly the college in which petitioners are working do not receive such grant, and therefore, clause 5 does not apply to them. There is no challenge to this classification. As there is omission on the part of the petitioners to challenge non-inclusion of college not receiving grant-in-aid for the purpose of age relaxation, rationale thereof need not be gone into. As such we find no case made out warranting interference, Writ Petition is, therefore, dismissed. No costs.

JUDGE

JUDGE

Rgd.