

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

WRIT PETITION NO.5951 OF 2014

(Gunwant s/o Eknathrao Warghat .vs.. The State of Maharashtra, through its Secretary, Department of Rural Development, Mumbai and others)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Shri B.G. Kulkarni, Advocate for the petitioner,
 Shri S.M. Ukey, Addl. G.P. for respondent Nos. 1 and 2,
 Shri W.G. Paunikar, Advocate for respondent Nos.3 and 4.

**CORAM : B.P. DHARMADHIKARI &
 Z.A. HAQ, JJ.**

DATE : 07-09-2015.

Heard Shri B.G. Kulkarni, learned Advocate for the petitioner, Shri S.M. Ukey, learned Additional Government Pleader for respondent Nos.1 and 2 and Shri W.G. Paunikar, learned Advocate for the respondent Nos.3 and 4.

2. The question raised in this petition is whether the petitioner can be given relaxation to the extent of experience, which he has acquired while working as Resource Person with respondent Nos.3 and 4 on contract basis.

3. The advertisement for filling the post of Extension Officer with respondent Nos.3 and 4 has been published on 22-08-2014 and the petitioner belonging to reserved category has to satisfy age requirement of 38 years. On the relevant

date, he was 39 years 4 months and 11 days old.

4. Shri Kulkarni, learned Advocate submits that the petitioner has been working on contract basis as Resource Person with Zilla Parishad and experience of three years as such is essential to qualify for consideration to the post of Extension Officer. Hence, the service put in on contract basis by the petitioner must be added as per the policy decisions. He is seeking support from the Recruitment Rules issued by the General Administration Department on 01-11-2003 and also points out the provisions in Government Resolution dated 15-02-1995. He submits that when such person working on contract basis is to be considered for direct recruitment, the condition of age limit is not attracted. The communication dated 21-03-2012 sent by the State Government to Zilla Parishad in relation to such Resource Person working under Sarva Shiksha Abhiyan is also relied upon. He contends that either there is no age limit for the petitioner or in the alternative, the petitioner must be given additional weightage for experience, which he has obtained as Resource Person on contract basis.

5. The petition is being opposed by Shri S.M. Ukey, learned Additional Government Pleader for the respondent Nos.1 and 2 and Shri W.G. Paunikar, learned Advocate for the respondent Nos.3 and 4. They submit that as the petitioner has crossed age limit of 38 years, he is not entitled even to apply.

6. The fact that the petitioner belongs to Scheduled Caste and therefore, age limit of 38 years is not in dispute. His age as on the date prescribed in the advertisement is also not in dispute. Various Government Resolutions and communications to which our attention have drawn, are also not disputed by the parties.

7. The Government Resolution dated 15-02-1995 is in respect of appointment of State Government Officers-Servants and experts in other fields on contract basis. As per Clause 8 thereof, it is mentioned that while considering such person for regular employment and direct recruitment, the educational qualifications cannot be relaxed, however, condition of age cannot be enforced in their case. Letter dated 21-03-2013 sent by the State Government to the Chief Executive Officer is on the subject of recruitment to cadre of Extension Officer (Education), Class-3, Group-II. It has been mentioned there that experience obtained by the petitioner as Resource Person-Subject Expert under Sarva Shiksha Abhiyan should be accepted and treated as valid for such post. The Recruitment Rules dated 01-11-2003 are issued with reference to Bombay Civil Services Classification and Recruitment Rules, 1939. It is mentioned that as per Rule 7 Note 3(b), the Government servants are given total exemption from age limit. The question whether such total exemption should continue, was under consideration and the State Government then decided

that to the extent of experience required for the post to be filled in by direct recruitment, the age relaxation can be given.

8. Here the petitioner has also worked as Resource Person on contract basis with the respondent Nos.2 and 3 and as such in terms of the communication dated 22-03-2015, he is entitled to be given benefit therefor and hence, weightage for said experience has to be given proportionately after his age of 38 years.

9. Accordingly, we direct respondent Nos.2 and 3 to give him weightage and to consider his entitlement for the post in accordance with law. Thus, the writ petition is partly allowed. No costs.

JUDGE

JUDGE

pma