

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

Writ Petition No. 6669 of 2015

(Vasanta Narayan Nannhe Vs. Hon'ble Principal District Judge/Chairman,
Recruitment Committee, District Court Chandrapur)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's order
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Shri V. N. Morande, Advocate for the petitioner

**CORAM : Smt. Vasanti A. Naik and
Prasanna B. Varale, JJ.**

DATE : 10-12-2015.

Heard.

By this petition, the petitioner seeks a direction to the respondents to allow the petitioner to participate in the recruitment process initiated in pursuance of an advertisement dated 15-9-2015 issued by the Registrar of the District Court, Chandrapur and to consider the candidature of the petitioner for the post of Sweeper.

The petitioner, who claims to belong to the backward class, intermittently served as a Sweeper with the respondent from 9-10-2006. An advertisement was issued by the respondent on 15-9-2015 inviting applications for appointment on 16 posts of Sweepers. The petitioner applied in pursuance of the said advertisement though the age of the petitioner is 46 years and the upper age limit for the backward candidates, as per the advertisement, is 38 years only. The candidature of

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the petitioner was rejected by the respondent on the ground that the petitioner was age-barred at the time of issuance of the advertisement. The petitioner has challenged the action of the respondent and has sought a direction to the respondent to consider the candidature of the petitioner.

In support of his claim, the petitioner has relied on Rule 11 of Appendix – A under paragraph 577 (iii) of the Civil Manual. It is stated that as per Rule 11, it was necessary for the respondent to send the proposal of the petitioner for relaxation of upper age limit to the High Court. It is submitted that since the petitioner secured an opportunity to officiate continuously in view of the advertisement, as per Rule 11, it was the duty of the respondent to send a proposal of the petitioner for relaxation of the upper age limit.

We do not find any merit in the submissions made on behalf of the petitioner. Admittedly, the petitioner was 46 years of age when he applied in pursuance of the advertisement. In fact, the petitioner should not have applied in pursuance of the advertisement at all as the advertisement clearly mentions the upper age limit for the general candidates as 33 years and for the candidates belonging to the backward classes as 38 years. The petitioner did not challenge the advertisement and applied in pursuance of the same. If the petitioner was of the view that some laxity or relaxation ought

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to have been granted to the persons like the petitioner, the advertisement should have been challenged in the first place. After participating in the recruitment process, the petitioner could not have claimed that the upper age limit in the case of the petitioner should be relaxed by the High Court. The petitioner did not apply to the learned District Judge or to the High Court for relaxation of the upper age limit before the advertisement was published nor did the petitioner challenge the advertisement. Even otherwise, we also do not find any force in the submission on behalf of the petitioner that the age limit in case of the petitioner ought to have been relaxed as per Rule 11. Rule 11 may not apply to the case like the one in hand. The said rule would apply to cases where the High Court or the District Court decides to regularize the services of the employees in Class-IV category after their continuous service as daily wagers for several years. This was being done by the High Court and the District Courts before the Hon'ble Supreme Court rendered the judgment in the case of ***Renu & ors. Vs. District & Sessions Judge, Tis Hazari & anr.*** reported in ***2014(2) Scale 262***. Since the regularization of the ad-hoc employees or employees working on daily wages is not permitted in view of the directives of the Hon'ble Supreme Court in the judgment reported in ***2014(2) Scale 262***, Rule 11 would not apply.

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In the circumstances of the case, we dismiss the writ petition with no order as to costs.

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