

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****WPS No. 2515 of 2009**

- Anil Kishore Pusphkar, S/o Shri Ram Kumar Pusphkar, aged about 41 years, resident of village and Post Gullu, Tahsil Arang, District Raipur (C.G.)

**---- Petitioner****Versus**

1. The State Of Chhattisgarh, through: The Secretary, in the Department of Panchayat and Social Welfare, Mantralaya at D.K.S. Bhawan, Raipur (C.G.)
2. The Director, Panchayat and Social Welfare Department, Raipur (C.G.)
3. The Chief Executive Officer, Zila Panchayat, Raipur (C.G.)

**---- Respondents**


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|----------------------------|---|----------------------------------------------|
| For Petitioner             | : | Shri S.K. Thomas, Advocate.                  |
| For Respondents No. 1 & 2: |   | Shri Y.S. Thakur, Deputy<br>Advocate General |
| For Respondent No. 3       | : | Shri Anmol Sharma,<br>Advocate.              |

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**Hon'ble Shri Justice Sanjay K. Agrawal****Order On Board****27/01/2016**

- (1) The petitioner was selected on the post of Shiksha Karmi Grade-I. He appeared in the written examination as OBC candidate. On the last date of submission of application, petitioner's age was 41 years 11 months and 11 days. Since the petitioner was OBC candidate, he was given age relaxation of 5 years. After selection of the petitioner, he was called for verification of documents on 20.02.2009, on

that day his candidature was rejected on the ground that he was overage i.e 41 years 11 months and 11 days.

- (2) By way of this petition, the petitioner has challenged that he is entitled for benefit of age relaxation of two years more as he had undergone vasectomy operation and as the Green Card Holders are entitled for age relaxation of two years and, therefore, writ petition be allowed and he be directed to be considered for the post of Shiksha Karmi Grade I in the Zila Panchayat, Raipur.
- (3) Return has been filed by the State stating *inter alia* that the petitioner was aged about 41 years 11 months & 11 days on the date of advertisement, as after granting age relaxation of 5 years, being OBC candidate, his age was 41 years 11 months & 11 days and the petitioner has failed to produce the Green Card for getting relaxation as promised under the said green card; and the State Government has not adopted the policy specifically relaxation of age to the Green Card Holders and, as such, the petitioner is not entitled for age relaxation of two years and, therefore, the writ petition deserves to be dismissed.
- (4) Learned counsel for the petitioner submits that since the petitioner has undergone vasectomy operation, therefore, he is entitled for age relaxation of two years and, thus, his case be considered for appointment on the post of Shiksha Karmi Grade-I in the Zila Panchyat, Raipur.
- (5) On the other hand, learned counsel for the State as well as learned counsel for respondent No. 3 would submit that the petitioner was overage on the date of consideration;

appointment on the post of Shiksha Karmi Grade-I has already been taken place and the petitioner has not impleaded the appointed candidate in the writ petition. He would further submit that the petitioner has failed to file rejoinder to the return filed by the respondents and, as such, he has not refuted the statement made in the return and, therefore, writ petition deserves to be dismissed.

- (6) I have heard learned counsel appearing the parties and considered their rival submissions with utmost circumspection.
- (7) It is not in dispute that the petitioner was overage on the date of consideration after granting age relaxation against the OBC category as the maximum age prescribed was 35 years by the advertisement. The respondents No. 1 to 3/State has clearly stated that no green card was filed by the petitioner claiming age relaxation under the policy of State Government; and also pleaded that age relaxation pursuant to the green card holders is not applicable to the State of Chhattisgarh, against which no rejoinder has been filed challenging the same; and the appointed candidate has also not been impleaded as party respondent in the instant writ petition.
- (8) Fact remains that contents of the return have not been controverted by the petitioner by filing rejoinder and the candidate, who is likely to be affected, in the event of writ petition being allowed, has not been impleaded as party respondent and it is not shown specifically that petitioner

claimed relaxation of age at any point of time before selection committee and even it has not been shown that relaxation of age of two years was available at the time of consideration.

- (9) Accordingly, the writ petition deserves to be and is hereby dismissed. No order as to costs.

Sd/-  
(Sanjay K. Agrawal)  
Judge

D/-