

hvn

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1867 OF 2016

Smt. Padmaja Shyam Karmalkar ... Petitioner

Versus

State of Maharashtra and Ors. ... Respondents

Mr. Manoj Hari for the petitioner.

Ms. Nisha Mehra, AGP for R. nos. 1 to 3 State.

**CORAM : SHANTANU KEMKAR &
PRAKASH D. NAIK, JJ.
DATED : DECEMBER 07, 2016.**

P.C.

Parties through their counsel.

2. By filing this petition, the petitioner has challenged the order dated 5.8.2014 passed by respondent no. 1 whereby the petitioner's claim for grant of age relaxation while she was appointed, has been rejected by observing that the petitioner is seeking relaxation of age to the extent of 5 years and 3 months.

3. Learned counsel for the petitioner has pointed out that in view of Rule 9(4) of the Maharashtra Employees of Private Schools (Condition of Service) Regulation Rules, 1981, there is no limit of

age relaxation in cases of women candidates. More over, it is the case of the petitioner that while rejecting the petitioner's claim, previous experience of the petitioner has been ignored which is also relevant consideration as per rule 9(4) of the said rules.

4. Having considered the submissions made by the learned counsel for the parties and having gone through the reply filed by the respondent State, we find that while passing the impugned order, respondent State has failed to take into consideration the relevant rules regarding powers to grant relaxation. The petitioner's case has been rejected only on the ground that she is claiming age relaxation of 5 years sand 3 months. Learned counsel for the petitioner has pointed out that the State has relaxed the age of even more than 7 years in various cases and the petitioner's case has been turned down simply by saying that the petitioner is claiming age relaxation of 5 years and 3 months. The other aspect of the matter that the petitioner being woman and having experience, has totally been ignored while passing the impugned order.

5. Having regard to the aforesaid submissions and having gone through the impugned order, we find substance in the contention

raised by the petitioner. In the impugned order there is total non consideration of the relevant rules and the fact that for the similarly placed employees, relaxation has been granted. Be that as it may, since the order is a non speaking order, to that effect, we set aside the impugned order so far as it relates to the petitioner and remit the matter back to the respondent State for passing a fresh order taking into consideration all the relevant rules and further documents as may be placed by the petitioner on record. Petitioner to appear before respondent no.1 on 21.12.2016 at 3.00 pm. Respondent no.1 shall grant opportunity of hearing to the petitioner and shall pass appropriate orders in the matter as expeditiously as possible but not later than three months from the date of appearance of the petitioner.

6. With the aforesaid directions, petition is disposed of.

(PRAKASH D. NAIK, J.)

(SHANTANU KEMKAR, J.)