

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1154 OF 2016**

Union of India & Ors

.....Petitioners.

V/s

Miss Jayashree Raghunath Kurade

.....Respondent.

Mr. Vinod Joshi for the Petitioners.

Mr. Advwait Sethna with Raju R. Thakkar for the Respondent.

**CORAM: V.M. KANADE &
M.S. SONAK, JJ.
DATE : 11th August, 2016**

P.C.:

1. Heard learned Counsel appearing on behalf of the Petitioners and the learned Counsel appearing on behalf of the Respondent.
2. Union of India is aggrieved by the order passed by the Central Administrative Tribunal ("CAT") directing them to consider the case of the Respondent after invoking power of relaxation of age limit cumulatively with other age relaxation for SC, ST and Backward Class.
- 3 The learned Counsel appearing on behalf of the Petitioners/Union of India submitted that the advertisement was issued for the post of Junior Hindi Translator and the age eligibility criteria in the advertisement was 25 years plus 5 years relaxation in the case of ST, SC and other Backward Class candidates. He submitted that the Respondent was 30 years and 4 months old when

she filed an application for being appointed to the said post and therefore by the impugned order/letter dated 10/05/2013 Additional Director (Establishment) informed the Respondent that she was not eligible since she had exceeded age limit of 30 years at the time of advertisement.

4. Respondent, being aggrieved by the said order, filed an Original Application before the CAT. The Tribunal after going through the relevant Rules, Regulations which were framed and after examining the power vested in the authority under Article 309 of the Constitution of India had passed the impugned order giving directions to the Union of India to consider the case of the Respondent after invoking power of relaxation of age limit cumulatively with other age relaxation for SC, ST and Backward Class.

5. We have perused the impugned order passed by the Tribunal. Tribunal has, in the first place, considered the Rules which were framed after examining the power vested in the authority under the proviso to Article 309 of the Constitution of India. The relevant Rule reads as under:-

“Junior Hindi Translator

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18-25 years**

1. Relaxable for Government servants upto 35 years in accordance with the instructions or orders issued by the Central Government.

Note:1 Relaxable for Scheduled Castes/Scheduled Tribes/Other Backward Castes and certain other Categories as notified by the Central Government from

time to time.

2. Relaxable cumulatively with any other age relaxation for Scheduled Caste/Scheduled Tribe and Backward Castes.

3. The crucial date for determining age limit shall be the closing date for receipt of the applications from candidates in India (for candidates residing abroad or in the Andaman and Nicobar Islands, Lakshadweep and other areas for which provision of extended closing date has been specified by the Government from time to time, the crucial date for determining the age limit shall be such extended closing date).

4. In case of recruitment made through the Employment Exchange the crucial date for determining the age limit shall be the last date up to which the Employment Exchange is asked to sponsor the names.”

5. The learned Counsel appearing on behalf of the Respondent submitted that over and above the said age relaxation, Ministry of Personnel, Public Grievance and Pensions (Department of Personnel and Training) issued a Notification dated 21/12/1998 again, after exercising the power conferred by proviso to Article 309 and clause (5) of Article 148 of the Constitution of India, prescribed in the said rule the upper age limit. Rule 3 reads as under:-

“3. Increase in the upper age limit:-

The upper age-limit for recruitment by the method of Direct Open Competitive Examination to the Central civil services and civil posts specified in the relevant Service/recruitment rules on the date of commencement of the Central Civil Services and Civil posts (Upper Age-limit for Direct Recruitment) Rules 1998, shall be increased by two years.

Note:- “Direct Open Competitive Examination” for the purpose of these rules shall mean direct recruitment by Open Competitive Examination conducted by the Union Public Service Commission or the Staff Selection Commission or any other authority under the Central Government and it shall not include recruitment through Limited Departmental Examination or through shortlisting or by interview or by contract or by absorption or transfer or deputation.”

6. Reading of the said Rule which has been framed by Notification dated 21/12/1998 and the earlier Notification it is clear that the words in the said Rules are that relaxation ought to be calculated cumulatively with any other relaxation for Scheduled Caste/ Scheduled Tribe and Backward Castes. The Notification dated 21/12/1998 in terms states that the upper age limit shall be increased by two years. We are therefore satisfied that the Tribunal was justified in allowing the application filed by the Respondent.

7. The order of the Tribunal, setting aside the impugned order/letter dated 10/5/2013, is confirmed by this Court. We direct the Petitioners/Union of India to appoint the Respondent to the said post after granting relaxation in age limit as per Rule 3 of the Notification dated 21/12/1998 within a period of six weeks.

8. With the aforesaid directions, Writ Petition is dismissed.

(M.S. SONAK, J.)

(V.M. KANADE, J.)