

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**W.P.S. NO. 4188 OF 2013**

• Rakesh Kumar Giri, S/o Late Shri Surendra Giri, aged about 45 years, R/o Chhote Atarmuda, in front of Municipal Bore House, Police Station- Raigarh, District- Raigarh (CG) **... Petitioner**

versus

1. State of Chhattisgarh, through the Secretary, Education Department, , Mantralaya, Mahanad Bhawan, New Raipur, P.S. Rakhi, District Raipur (CG)
2. The Commissioner, Higher Education Department, Government Science College Campus, Raipur (CG)
3. Chhattisgarh State Public Service Commission, through the Secretary, Public Service Commission, Raipur (CG) **... Respondents**

For Petitioner	:	Mr. Tridib Bhattacharya, Advocate.
For Respondents 1 & 2	:	Mrs. Astha Shukla, Panel Lawyer.
For Respondent 3	:	Mr. B.D. Guru, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****20/09/2018**

1. Grievance of the petitioner in the instant case is the action on the part of the respondents whereby they have put the petitioner in the category of ineligible candidates.
2. The dispute arises from an advertisement which was issued on 20.5.2009 for filling up of the post of Assistant Professor in various disciplines. The petitioner had intended to participate to the post of Assistant Professor (Economics).
3. The petitioner applied for the said post under the OBC category and had also participated in the written examination. However, when the results were declared the petitioner's name stood in the list of ineligible candidates. Meanwhile, there was a serious of litigation arising out of the same recruitment process whereby some of the candidates who were not Shiksha Karmis but were working as Assistant Professor with the respondent-State had gone to the High Court seeking for indulgence of the High Court against the respondents for permitting the relaxation provided to the Shiksha Karmis also to be extended to the contractual Assistant Professors working under the respondents.

4. The said writ petition seized by the Division Bench of this Court vide leading case i.e. W.P.S. No. 2625/2010, and other analogous writ petitions, finally stood decided by a common judgment dated 29.3.2012. Vide the said judgment, the Division Bench had allowed the said writ petition and permitted the State Government to consider granting of age relaxation to those Assistant Professors working on contractual basis akin to the relaxation being provided to the Shiksha Karmis.

5. The advertisement was issued on 20.5.2009 and the age criteria fixed under advertisement was to be calculated as on 1.1.2010. As per the petitioner himself, his age on date 1.1.2010 was 42 years, 7 months and 16 days. The upper age limit under the normal circumstances as per the advertisement was 37 years. The petitioner had the benefit of additional relaxation of 5 years being from the reserved category i.e. in the OBC category, which entitles the petitioner the relaxation up to 42 years of age. In addition, the petitioner was claiming the advantage of relaxation on the experience that he has as a contractual Assistant Professor.

6. The respondents on considering the claim of the petitioner found that the petitioner had worked as contractual Assistant Professor only for a period of 5 months and 3 days, i.e., he did not complete more than 6 months of service. That, under the advertisement itself in clause 4.1.6 the State Government had mentioned that for the purpose of calculating one year service the minimum service which a candidate should have rendered should be more than 6 months, which admittedly in the present set of facts the petitioner has not achieved. The petitioner on this ground itself is not entitled for any relaxation which he is claiming for by virtue of age relaxation. The said claim of the petitioner stands rejected on this ground alone.

7. At this juncture, counsel for the petitioner submitted that the petitioner was not at fault with having worked less than 6 months. It is only the respondents who are to be blamed who had granted appointment to the petitioner at a late stage. This ground of the petitioner may not be acceptable for the reason that the recruitments are held as and when the requirement are felt by the respondent State Government. No indefeasible right has been conferred upon a person in this regard.

8. Lastly, the petitioner has tried to canvas the issue that the respondent authorities should have considered the fact that the advertisement dated 20.5.2009 was issued after more than a decade and in between there was no recruitment process initiated by the State Government and if the petitioner has crossed the upper age limit only on account of non-issuance of an advertisement on an earlier occasion, in spite of the fact that the petitioner was duly qualified and competent for the said post right since 1999. This again would not be an area which could be dealt with under judicial review by this Court under Article 226 of the Constitution of India. It is for the State Government to consider this aspect if any such relaxation could have been granted to those persons who have been deprived of participation in the selection process on account of non-initiation of recruitment process for a considerable long period. It is for the State Government to take a decision in this regard.

9. Reserving the right of the petitioner to approach the State Government in this regard seeking for any relaxation under the said circumstances, the present writ petition in its present form given the aforesaid factual matrix does not have merit and the same deserves to be dismissed.

10. The writ petition accordingly stands dismissed.

Sd/-
(P. Sam Koshy)
Judge