

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 6579 of 2010**

Amit Kumar Shukla, Aged about 35 years, S/o. Ram Kishore Shukla,
R/o. C/o. Sushil Yadu, D.No. 50/436, Near Ram Mandir, Sonkar Para,
Lakhe Nagar, Raipur, Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary, Department Of Panchayat and Rural Development, D.K.S. Bhawan, Mantralaya, Raipur, Chhattisgarh
2. Secretary, Health and Family Welfare Department, D.K.S. Bhawan, Mantralaya, Raipur, Chhattisgarh
3. Chief Executive Officer, Zila Panchayat, Durg, Chhattisgarh

----Respondents

For Petitioner	:	Mr. Ishan Verma, Advocate
For State	:	Mr. Aushutosh Pandey, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order on Board****03/05/2018**

1. The grievance of the petitioner in the present case was of non-consideration of the age relaxation, which the petitioner was entitled by virtue of being a Green Card holder/LTT certificate holder, so far as recruitment to the post of Shiksha Karmi Grade-I (Chemistry).
2. The fact of the case is that the petitioner had applied for the post of Shiksha Karmi Grade-I (Chemistry) as per the advertisement published in the daily newspaper in the year 2009. The petitioner participated in the written examination and had topped the merit list and raked first so far as the Shiksha Karmi Grade-I (Chemistry) is concerned. However, since the petitioner on the date of selection was found to be aged about 35 years and 4 months, as such had crossed the maximum age limit permissible in the advertisement was not considered.

3. The contention of the petitioner is that the circular of the State Government provides for granting age relaxation of two years to those candidates, who are Green Card holders/LTT certificate holders. The petitioner in the instant case is a holder of LTT certificate, as his wife has undergone the family planning operation and for which a certificate also was issued in favour of his wife (Annexure P/4). The counsel for the petitioner submits that in case if the petitioner is granted the relaxation as is otherwise permissible for his having the certificate, he would have been easily selected for the post of Shiksha Karmi Grade-I (Chemistry). This action of the respondents is bad in law, arbitrary and deserves to be set-aside.
4. The State counsel on the contrary opposing the petition submits that since the advertisement was silent so far as granting of age relaxation for the candidates having Green Card/LTT certificate, the petitioner cannot be granted the advantage of the same. He submits that the petitioner undoubtedly belonged to the general category and as such would not be entitled for any relaxation more so when the advertisement itself does not provide for any age relaxation. He further submits that even the rule which was applicable at the relevant point of time i.e. the rules of 2007 was also silent in this regard and on this ground also the petitioner would not be entitled for any age relaxation.
5. Having heard the contentions put forth on either side and on perusal of the record what clearly reflects is that this Court in the case of **“Vishvanath Sinha v. State of Chhattisgarh & Another.”** passed in WPS No. 4208/2010, decided on 27th July, 2012 has held as under:-

“15. In the circular dated 30.11.1989, it is clearly provided that if a woman has performed sterilization operation after two children, she would be given the green card. The fact that the wives of the petitioners have undergone sterilization operation after two children is not in dispute. Thus, even if the green card was not given, which she was entitled to, the petitioners are equally entitled to the reliefs as provided under the aforesaid circular. Out of several reliefs, one is two years age relaxation, preference in reservation and 5% concession in interview. The petitioners are claiming age relaxation on account of the above-stated facts, which they are entitled to.

16. In view of the above-stated facts and circumstances of the case, if the petitioners, after granting two years age relaxation, come within the prescribed age limit, the petitioners are to be allowed for participation in the selection process for appointment, thereon, in accordance with law and on its own merits.”

6. The said legal position further stood reiterated by this Court in WPS No. 2309/2013 and a couple of other writ petitions have also been decided on similar terms i.e. WPS No. 3909/2013 and WPS No. 5135/2010. Taking into consideration the legal position as is stands clear from the aforesaid judgment cited above, if we compare the facts of the present case, admittedly the petitioner was considered for selection for the post of Shiksha Karmi Grade-I (Chemistry) in the advertisement issued in 2009. On the said date, he was of 35 years and 4 months of age. The maximum permissible age limit was 35 years.
7. So far as the advertisement and the rules being silent for grant of relaxation of age is concerned, it is settled that if the advertisement is

silent that by itself would not mean that the age relaxation provided by the State Government from time to time would not be applicable in the said advertisement. On the contrary, it would be the other way round wherein the age relaxation otherwise permissible under the rules and guidelines of the State Government would become automatically applicable. Moreover if we see the judgment in the preceding paragraphs, it clearly reflects that the State of Chhattisgarh in fact has been providing age relaxation to similarly placed persons like that of the petitioner in the various other recruitment process initiated by the State Government. Given the aforesaid fact, the petitioner alone should not be deprived of the same only because the advertisement and rules was silent.

8. Given the above fact, this Court is of the opinion that the present writ petition also deserves to be allowed and is accordingly allowed. The respondents are directed to process the case of the petitioner by granting him the age relaxation, which is otherwise provided to the Green Card/LTT certificate holder and subject to the petitioner fulfilling all the other eligibility criteria, his case may be considered for grant of appointment to the post of Shiksha Karmi Grade-I (Chemistry) forthwith.
9. The writ petition accordingly stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge