

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 540 of 2018**

{Arising out of Order dated 19.04.2018 passed in Writ Petition (S) No. 1801 of 2014 by the learned Single Judge}

Vijay Kumar Tiwari Son of Late Shri D.P.Tiwari, aged about 38 years, Resident of Rajput Kirana Store, Brijdhar Plastic, Santoshi Nagar, Raipur, Tahsil and District Raipur, Chhattisgarh.

---- Appellant

Versus

1. State of Chhattisgarh Through Secretary, Department of Rural Engineering Department, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur, Chhattisgarh.
2. Chief Engineer, Rural Engineering Service, Office of Development Commissioner, Raipur, Chhattisgarh.

---- Respondents

For Appellant : Shri Ajay Shrivastava, Advocate.
For Respondent/State : Shri UNS Deo, Government Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board**Per Ajay Kumar Tripathi, Chief Justice****14/09/2018**

1. Writ application was filed by the Appellant when his prayer for grant of age relaxation on ground of sterilisation/family planning in matter of appointment on the post of Sub Engineer (Civil) in the Department of Rural Engineering Services, was rejected by the Respondent authorities on 14.03.2014, Annexure P/1 to the writ application. The said decision was challenged before the learned Single Judge, who in the totality of the circumstances,

did not find any merit in the writ, and therefore, dismissed the same.

2. The Court is not required to go into the factual details. There was an advertisement where the maximum age for recruitment was specified. The Appellant was over age, but in terms of the policy of the State Government, he demanded and was looking forward to relaxation of age by two years since his wife had undergone sterilisation.
3. The main limb of argument on behalf of the Appellant before the learned Single Judge was that in similar circumstances, many a writ applications came to be allowed and benefit of extended age accrued to their advantage and therefore, there should be parity even in his case.
4. The learned Single Judge has taken note of the fact that even with the concession of two years, he was more than six months over age, and in addition to that, the Court took a view that since the Appellant was a fence sitter, he did not approach the Court in time and decided to file the writ application when he discovered that some similar reliefs have been granted to some other persons by the High Court but well after the recruitment was over.
5. Irrespective of the above reasons which have been assigned by the learned Single Judge, the fact remains that the advertisement was issued as far back as 28.04.2012. The recruitment exercise was completed, appointments have been done and since the appoints are not an ongoing exercise or process, therefore, a person cannot be ordered to be appointed at his convenience or timing.
6. An argument is made that there are still vacancies subsisting and therefore, there should not be any difficulty in directing the Respondent authorities to appoint the Appellant on similar ground of relaxation of age. To such submission, this Court has to observe that the left over vacancies, if any,

will be required to be filled up in the next exercise of recruitment and those vacancies cannot be utilized through a judicial order to be filled up when it is not even the case of the Appellant that he was part of the select list of candidates and was on the wait list panel to be appointed against any subsisting vacancy.

7. The order of the learned Single Judge does not suffer from any infirmity. The appeal has no merit. It is dismissed.

Sd/-
(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-
(Parth Prateem Sahu)
JUDGE