

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 7703 of 2018

Ashish Kumar Bharti S/o Late Meghai Lal Bharti Aged About 42 Years Rili Building Behind Kanab Nagar, New Chayara Bhata, District - Raipur, Chhattisgarh.,

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, General Administration Department Mahanadi Bhawan, Mantralaya, New Raipur, Tahsil And District - Raipur, Chhattisgarh.
2. Chhattisgarh State Power Holding Company Ltd. Through Managing Director Head Office, 2nd Floor, Vidyut Seva Bhavan, Dangania - Raipur Chhattisgarh, District - Raipur, Chhattisgarh.

---Respondents

For Petitioner	:	Mr. J.K. Gupta, Advocate
For State	:	Mr. S.P. Kale, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

27/11/2018

1. The challenge in the present writ petition is to the advertisement Annexure P/1 dated 18.07.2018, whereby the maximum age limit prescribed for recruitment inclusive of all relaxations has been fixed at 40.
2. The contention of the petitioner is that in the State Government the maximum age limit inclusive of all relaxations is 45 and which should have also been applied in the respondent No.2-establishment. Having not done so, the advertisement and the clause in the advertisement is thus bad.
3. The perusal of the record would show that the documents and the circular, which have been relied upon by the petitioner is not one which would be applicable on the respondent No.2-Company. The

circular Annexure P/2 is a circular, that would be applicable for the government employees and the departments under the State Government. The respondent No.2 is a company incorporated under the Indian Companies Act and the circulars, rules and the regulations of the State Government would not automatically become applicable upon the respondent No.2. The respondent No.2 is an independent juristic company having its own rules and regulations governing the service conditions for its employees.

4. So far as the age and the upper age limit are concerned, it is exclusively within the domain of the respondent No.2 to decide what should be the minimum and the maximum age limit for a particular post.
5. Given the said facts, this Court does not find any strong case made on the part of the petitioner in interfering with the advertisement under challenge. This Court is also not inclined to interfere with the writ petition at this juncture for the reason that the advertisement was issued as early as on 18.07.2018 and the last date for filling up of the application was initially up till 10.08.2018, which has been subsequently extended up to 02.11.2018 and the petitioner has filed the present writ petition only on 13.11.2018 i.e. much after the last date of filling up of the applications has lapsed.
6. Recently, a similar issue came up before this Court in two writ petitions i.e. WPS No. 3538/2018 (Eshwar Dhar Bandhe v. State of Chhattisgarh & another) and WPS No. 3659/2018 (Parmanand Manjhar & another v. State of Chhattisgarh & Ors.), which were decided by a common order dated 17.05.2018 and this Court while deciding the same had in paragraph No. 8 to 10 held as under:-

“8. Having heard the contentions put for forth on either side and on perusal of records, indisputably the respondent No.2 is a company duly incorporated under the Companies Act. It is also not in dispute that the respondent No.2 is one of the successor company of the erstwhile Chhattisgarh State Electricity Board (in short, CSEB). The CSEB also as it then existed was an autonomous body and a separate legal entity and even then it was not a department under the State Govt. and it had its own rules and regulations. The respondent No.2 is a separate legal entity and is in itself a juristic person distinct from the department of the State Govt. The respondent No.2 have in itself the powers of laying down the service conditions for its employees without being in any manner influenced by the decisions of the State Govt. or the rules and regulations made applicable for the government employees. The circulars, notification and the orders issued by the State Govt. from time to time would not ipso facto apply upon the respondent No.2. If at all if the respondent No.2 intends to apply any of those circulars, notifications, orders or the service conditions, the respondent No.2 would have to by a notification adopt the same for it being made applicable in the respondent-organization.

9. Moreover, the employees of the respondent No.2 is never treated as employee of the State Govt. The circular dated 23.01.2017 relied upon by the petitioners also does not reflect of it being made applicable upon the respondent No.2 as name of the said company is not mentioned in the circular whereas all the other departments of the State Govt. has been reflected in it. It is also noteworthy to mention that the said circular itself has categorically exempted its applicability upon the

Police Department of the State Govt. which further strengthens the case of the respondents.

10. The view of this court stands further fortified from the decision of this High Court in case of Santosh Kumar Vs. State of Chhattisgarh & Ors. (WPS No.1291 of 2007, decided on 27.06.2008) wherein in the identical set of facts, the writ petition had been dismissed.”

7. Given the said facts also, the present writ petition is not sustainable and being devoid of merit the same deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge

Ved