

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19-07-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.15235 of 2017

And

W.M.P.No.16527 of 2017

M.Yashoda

.. Petitioner

Versus

- 1.The Union of India represented by the
Chief Secretary to Government,
Government of Puducherry,
Puducherry.
 - 2.The Secretary to Government,
Department of Health and Family Welfare,
Government of Puducherry,
Puducherry.
 - 3.Perunthalaivar Kamaraj Medical College,
Society represented by its Chairman,
Government of Puducherry,
Puducherry.
 - 4.The Director,
Indira Gandhi Medical College and Research
Institute,
Vazhudavur Road,
Kathirkamam,
Puducherry - 605 009.
- .. Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration, declaring the action of the respondents in rejecting the petitioner as overaged for the post of Dialysis Operator under the notification of the fourth respondent bearing Ref.No.32/IGMC&RI/Estt./Contract/2017/339 dated 22.4.2017, through their sms message as illegal and consequently, direct the respondents to include the petitioner in the process of selection for the post of Dialysis Operator pursuant to her application under the notification of the fourth respondent bearing

Ref.No.32/IGMC&RI/Estt./Contract/2017/339 dated 22.4.2017 and appoint her as per merit in accordance with law.

For Petitioner : Mr.T.Sai krishnan for Mr.R.Saravanan

For Respondents: Mr.J.Kumaran,
Additional Government Pleader (Puducherry).

O R D E R

The advertisement issued by the fourth respondent in proceedings dated 22.4.2017 in respect of the recruitment to the post of Dialysis Operator on contract basis in Indira Gandhi Medical College and Research Institute, is under challenge in this writ petition.

2. The grievance of the writ petitioner is that she is fully qualified for appointment to the post of Dialysis Operator in the fourth respondent-Institute. However, her application was rejected on the ground that the writ petitioner has crossed the upper age limit of 30 years. At the time of submission of the application, the writ petitioner was overaged by 3 years and 12 days and therefore, the application submitted by the writ petitioner was rejected.

3. The learned counsel, appearing on behalf of the writ petitioner, made a submission that the Government of India which granted age relaxation in respect of sports persons. Thus, the Office Memorandum issued by the Government of India in proceedings dated 12.11.1987 is to be implemented in respect of fourth respondent also.

4. The learned Additional Government Pleader (Puducherry), appearing on behalf of the respondents, opposed the contentions of the learned counsel for the petitioner, by stating that the said Office Memorandum issued by the Ministry of Personnel, Government of India, P.G. & Pensions (Department of Personnel and Training) dated 12.11.1987 is not applicable in respect of the fourth respondent, which is a Society registered under the Societies Registration Act and as far as the fourth respondent is concerned, they are following their own bye-laws and the regulations issued by the Government of Puducherry. Accordingly, there is no age relaxation for the sports persons granted by the fourth respondent and in the notification also, there is no such indication.

5. This Court is of an opinion that the advertisement was issued for appointment to the post of Dialysis Operator on contract basis. The recruitment itself is for contractual appointment and not for regular appointment.

This apart, the upper age limit fixed as per the notification is 30 years. Admittedly, the writ petitioner crossed the prescribed age limit of 30 years. Therefore, she is not eligible to participate in the process of selection.

6. The notification is silent in respect of grant of age relaxation for the sports persons. In the absence of any specific relaxation granted in the recruitment notification, a candidate cannot file a writ petition and seek relaxation of age limit for participating in the process selection. This apart, the fourth respondent is not obligated to grant any such age relaxation in respect of sports persons. The Office Memorandum dated 12.11.1987, cannot be directly applied in respect of the fourth respondent, in the absence of any specific resolution to that effect by the fourth respondent-Institute. Even otherwise also, appointment is only for contract basis and for that the age relaxation need not be granted and if at all such relaxation is to be granted, it is for the authorities competent to take administrative decision in this regard. However, the Courts cannot direct the authorities to grant age relaxation in respect of recruitments to be made for contract appointments.

7. In the event of granting any such relief of age relaxation, then all such similarly placed persons will come and claim the similar relaxation and in such an event, the very sanctity of the recruitment conditions imposed in the advertisement will be defeated. The Courts cannot dilute the qualification and the age limit, prescribed in the recruitment notification by the competent authorities. The rule is to be followed in all circumstances. Relaxation is only an exception and can never be construed as a rule. Such being the principles to be followed, the writ petitioner cannot claim age relaxation in respect of recruitment notification issued by the fourth respondent in proceedings dated 22.4.2017.

8. Thus, the writ petitioner has not made out any valid ground for the purpose of interference. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Svn

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

To

- 1.The Chief Secretary to Government,
Union of India,
Government of Puducherry,
Puducherry.
- 2.The Secretary to Government,
Department of Health and Family Welfare,
Government of Puducherry,
Puducherry.
- 3.The Chairman,
Perunthalaivar Kamaraj Medical College Society ,
Government of Puducherry,
Puducherry.
- 4.The Director,
Indira Gandhi Medical College and Research Institute,
Vazhudavur Road,
Kathirkamam,
Puducherry - 605 009.

+1 cc to Mr.R.SARAVANAN Advocate SR.NO.48448

+1 cc to GOVERNMENT PLEADER (PUDHUCHERRY) SR.NO.48295

WP 15235 of 2017

GJ(CO)
ASK(06/08/2018)

सत्यमेव जयते

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