

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2018

CORAM

The Honourable Mr. Justice S.M.SUBRAMANIAM

W.P.No.37984 of 2015

and

W.M.P.Nos.1 of 2015 and 8036 of 2016

1.D.Madhavanidhi

2.S.Raja Ravivarman

.. Petitioners

Versus

1.The Director General,
Highways Department,
Chepauk, Chennai- 600 005.

2.The Joint Director,
O/o. the Director General,
Highways Department,
Chepauk, Chennai-600 005.

.. Respondents

Prayer: Writ Petition filed Under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to accept application of the petitioners to take part in the recruitment process initiated vide Notification No.12390/Nir5()1/2014 dated 26.10.2015 without reference to the amendment to the general rules in part II of the Tamil Nadu State and Subordinates Service Rules (Vol.I of the Tamil Nadu Services Manual 1987) vide Rule 54(B) vide G.O.Ms.No.114 dated 11.08.2010 and consequently without reference to clause 2 of the notification of the 2nd respondent so far as the petitioners are concerned direct the respondents to implement G.O.Ms.No.98, Personnel and Administrative Reforms Department, Dated 17.07.2006 by increasing the upper age limit of BC and SC candidates from 32 to 40 years.

For Petitioners

: Mr.T.P.Prabakaran

For Respondents

: Mr.M.Elumalai

(Government Advocate)

O R D E R

The relief sought for in this writ petition is to direct the respondents to accept the application of the petitioners to take part in the recruitment process initiated vide Notification No.12390/Nir5()1/2014 dated 26.10.2015 without reference to the amendment to the general Rules in part II of the Tamil Nadu State and Subordinates Service Rules (Vol.I of the Tamil Nadu Services Manual 1987) vide Rule 54(B) vide G.O.Ms.No.114 dated 11.08.2010 and consequently without reference to clause 2 of the notification of the 2nd respondent so far as the petitioners are concerned and consequently, direct the respondents to implement G.O.Ms.No.98, Personnel and Administrative Reforms Department, Dated 17.07.2006 by increasing the upper age limit for BC and SC candidates from 32 to 40 years.

2.The writ petitioners submitted applications for direct recruitment for the post of Junior Drafting Officer, in pursuant to the recruitment notification issued by the second respondent on 26.10.2015. The grievance of the writ petitioner is that the applications were not even admitted on account of the fact that they are over aged. Under these circumstances, the petitioners claim that they should be granted age relaxation enabling them to participate in the process of selection. At the out set, the learned counsel appearing for the petitioners submitted that the petitioners are entitled for grant of age relaxation so as to participate in the process of selection for recruitment to the post of Junior Drafting Officer.

3.The learned Government Advocate appearing on behalf of the respondents opposed the contention by stating that the Government had issued G.O.Ms.No.212, Personal and Administration Reforms(P) Department dated 29.11.12, had imposed a ban on recruitment in respect of all the posts in the State of Tamil Nadu except certain essential posts, such as teachers, doctors and police constables, etc. Later, by G.O.Ms.No.14, Personal and Administration Reforms(P) Department dated 7.02.2006, the said ban imposed came to be lifted. In order to provide a concession in respect of the unemployed groups affected on account of the ban order for five years, the Government granted relaxation of upper age limit for five years in the G.O.Ms.No.98, Personal and Administration Reforms(P) Department dated 17.07.2006. However, the concession of five years granted was expired in the year 2011, the grant of relaxation of five years was granted in the year 2006-11 and the present notification for recruitment to the post of Junior Drafting Officer was issued on 26.10.2015. Therefore, there is no question of extending the benefit of age relaxation already granted by the Government for five years from 2006-17 as mentioned in G.O.Ms.No.98.

4. The conditions stipulated in the recruitment notification in respect of the educational qualifications, age and other qualifications are the propogative of the authority and the Courts cannot interfere with the conditions stipulated for recruitment. The intervention can be done only in exceptional circumstances if such conditions are ultra virus and statutory unconstitutional. In all other circumstances the conditions regarding the educational qualification, eligibility and other criteria as fixed by the Competent Authority ought to be followed scrupulously at the time of undertaking the process of selection there cannot be any dilution in respect of the implementation of recruitment rules in force. Relaxation can never be granted in a routine or mechanical manner. The power of relaxation is granted to the Government in order to mitigate the hardship or injustice caused to an individual or group of people. Therefore, grant of relaxation is not an automatic, but only on exceptional circumstances and for deserving cases, the Government can exercise the power of relaxation only in the interest of justice and not otherwise. Relaxation can never be claimed as a matter of legal right. The rules ought to be followed strictly and relaxation is an exception. Thus, the very relief sought for in this writ petition cannot be granted in view of the fact that the benefit of G.O.Ms.No.98 cannot be granted, since the period of five years lapsed in the year 2011, and the notification was issued in the year 2015. In this view of the matter the writ petitioners have not established any acceptable legal ground so as to grant the relief as sought for, in this writ petition.

5. Accordingly the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

stm/nmm

Sub Assistant Registrar

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To

1.The Director General,
Highways Department,
Chepauk, Chennai- 600 005.

2.The Joint Director,
O/o. the Director General,
Highways Department,
Chepauk, Chennai-600 005.

+1cc to Mr.T.P.PRABAKARAN, Advocate, S.R.No. 45889

W.P.No.37984 of 2015

BR(CO)
TR(02/08/2018)



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