

**HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

W.A.No.94 of 2018

JUDGMENT: (ORAL)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present petition, the appellants challenged the order dated 04-01-2018 passed in W.P.No.382 of 2018, whereby the writ petition filed by the appellants before the learned Single judge has been dismissed by recording as under:

“The notification was issued long back and the applications were sought to be accepted from 20-12-2017. Though there is some grievance to be redressed in relation to the petitioners, since the procedure for acceptance of applications is through online basis, no relief can be granted to the petitioners who approached this Court at the last moment seeking relaxation of age limit. Obviously, the software so far developed does not accept the applications which did not contain any code number which is available for the persons who worked or working with ECIL on tenure based contract. In the circumstances, no relief can be granted to the petitioners.”

The case of the petitioners is that they have been working with the 1st respondent-Corporation through an outsourcing agency since 2010. The petitioners passed ITI and completed National Apprenticeship Certificate in ECIL only. While so, the 2nd respondent issued Notification No.38 of 2017 for the recruitment to the post of Tradesman-B (WG-III) in different trades. The last date for submission of the applications through online was 05-01-2018. The upper age limit was prescribed as 28 years as on 30-11-2017. However, the relaxation of maximum age limit is allowed up to 40 years for those who worked or working with ECIL as

Senior Artisan/Junior Artisan with ITI qualification plus NAC or ITI qualification plus experience of tenure based contract. Vide the present appeal, the petitioners are seeking extension of the benefit of age relaxation to the appellants also, as they worked through an outsourcing agency.

In the counter affidavit, it is stated that the respondent-Corporation has received 3064 applications against said notification for filling-up 40 number of posts. In case, the request of the appellants for relaxation of age is considered by ECIL, the affect will be as cascading since so many such employees worked/working through the said Manpower Agencies have deputed personnel to ECIL for temporary assignments will also claim similar relaxations with ECIL. The maximum age criteria for the post of Tradesman-B was prescribed as per the recruitment rules of the company. In order to recruit regular manpower requirement, respondent-Corporation resorts to recruitment of suitable candidates for various posts from time to time. Age relaxation is not granted to any contract category workmen in the post as the same is not as per Company rules and legally permissible.

On the last of date of hearing, learned counsel for the respondent-Corporation argued that certificate which produced by the petitioner from their employer that they do not have any record whether really worked with the Contractor or not. Moreover the respondent-Corporation is considering the application of the candidate who directly worked with the respondents.

It is not in dispute that the petitioners did not work with the Contractors, who are in the panel of respondents for providing services. The respondents have issued PF to the petitioners for an amount of Rs.55,534/- and Rs.47,796/- respectively. Therefore, the respondents cannot say that the petitioners have not worked with the respondent-Corporation.

In view of the above, we are of the considered opinion that the petitioners are entitled to be considered for the posts in question and also entitled for the age relaxation up to the age of 40 years. Consequently, we hereby set aside the order dated 04-01-2018 passed in WP.No.382 of 2018.

Accordingly, the Writ Appeal is allowed.

Consequently, the respondents shall permit the petitioners to participate in the selection process to be conducted on 11-03-2018.

The petitioners are directed to file their applications by tomorrow 5 PM.

Miscellaneous applications pending, if any, shall stand closed.
No costs.

SURESH KUMAR KAIT, J

ABHINAND KUMAR SHAVILI, J

08-03-2018

Note:

Issue CC by tomorrow.

B/o.

Nvl

