

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.398 of 2018

In

Civil Writ Jurisdiction Case No.4837 of 2016

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Pamala Kumari, Wife of Dhirendra Kumar @ Dhirendra Kumar Singh
Resident of Ayodhya Enclave Flate No. 303, DVC, Colony Road, Yarpur,
Police Station- Gardanibagh District Patna.

... .. Appellant/s

Versus

1. The High Court of Judicature at Patna through The Registrar General
2. The Registrar General, High Court of Judicature at Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Dinu Kumar, Advocate
Miss. Ritika Rani, Advocate
For the Respondent/s : Mr. Mrigank Mauli, Advocate
Mr. Sanjay Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 03-04-2019

Heard Shri Dinu Kumar, learned counsel for the
appellant and Shri Mrigank Mauli for the Respondent High
Court.

2. The appellant has come up contending that she



fulfilled the eligibility criteria and she was even selected and offered appointment, but at the time of her joining she was informed that she was over age as on the date of the advertisement.

3. Learned counsel contends that the advertisement itself provided for relaxation to the members of Scheduled Castes, Scheduled Tribes and other Backward Categories and if that was so, such relaxation was also available to the appellant who, even though belonging to the General Category, was entitled for such relaxation keeping in view the resolution that was passed pursuant to the decision of the Cabinet dated 26.06.2006 that remained in operation till 31.12.2010 and was extended till 31.12.2015, whereafter it was again promulgated on 07.01.2016. Learned counsel for the appellant contends that the same prescribes the maximum age limit for unreserved category of males up to 37 years and un-reserved category of females to 40 years. Thus, the maximum age for candidates of the female category in the un-reserved class was 40 years and since the applicant was only 38 years of age on the date of application she was entitled to be considered for appointment keeping in view the aforesaid resolution. It is urged that the said resolution by implication is applicable, inasmuch as, it is under



the same resolution that the maximum age limits in respect of reserved categories has been relaxed.

4. A new plea has also been taken before us on the strength of such benefits having been extended now to female category candidates under the amendment brought about in the rule under the notification dated 26th March, 2019.

5. Replying to the aforesaid submission, Shri Mrigank Mauli submits that so far as relaxation is concerned, the same is not the purport of the Government resolution on which reliance has been placed, inasmuch as, it prescribes the maximum age limits of all categories. This resolution had not been adopted as on the date of the advertisement and the maximum age limit of 35 years was existing in the Patna High Court Officers and Staff (Conditions of Service & Conduct) Rules, 1997.

6. The aforesaid contention of Shri Mrigank Mauli appears to be correct, inasmuch as, the prescription of age, as was then existing as on the date of public notice/advertisement, was minimum of 25 years and not more than 35 years. Thus, the Government resolution having not been adopted, the maximum age continued to be 35 years.

7. Coming to the issue of relaxation, it has been



pointed out by Shri Mrigank Mauli that Rule 14 of the 1997 Rules makes a provision for relaxation, but only with regard to reserved category candidates. It is in this light that the relaxation was extended in the advertisement and, therefore, the same is not available for General Category Candidates.

8. We have considered the submissions and there is yet another submission made that three candidates who had applied against the said advertisement were extended the benefit of relaxation whose names had been disclosed in Paragraph 2 of the affidavit filed today. It is not disputed by the learned counsel for the appellant that those three persons are of the reserved category and not of the general category.

9. In the background aforesaid, what we find is that as on the date of advertisement the High Court Rules provided the maximum age as 35 years and there was no rule relating to relaxation or grant thereof for the Un-reserved Category Candidates, namely, the General Category Candidates. Consequently, there being no provision for relaxation and the maximum age being 35 years, the applicant admittedly could not have been offered appointment as she was 38 years of age on the date of the application.

10. We, therefore, do not find any merit in this



appeal, which is hereby dismissed.

(Amreshwar Pratap Sahi, CJ)

(Rajeev Ranjan Prasad, J)

P.K.P./-

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