

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 59 of 2019**

{Arising out of order dated 04.01.2019 passed by learned Single Judge in Writ Petition (S) No. 8069 of 2018}

- Arun Kumar Pathak, Son of Late Ramesh Prasad Pathak, aged about 43 years, Presently working as Laboratory Technician, At Government Naveen College Tapkara, District Jashpur, Chhattisgarh.

---- Appellant**Versus**

1. State of Chhattisgarh, Through : Secretary, Department of General Administration, Mantralaya Mahanad Bhawan, Naya Raipur (C.G.)
2. Chhattisgarh Public Service Commission, Through its Secretary, Shankar Nagar, Raipur (C.G.)

---- Respondents

For Appellant	:	In person.
For Respondent No.1/State:		Ms. Richa Shukla, Deputy Government Advocate.
For Respondent No.2/PSC:		Shri Sudeep Agrawal, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu

Judgment on Board**Per Ajay Kumar Tripathi, Chief Justice****04.02.2019**

1. Heard the Appellant, the learned Deputy Government Advocate for the State and the learned counsel for the Respondent No.2/PSC.
2. Writ application of the Appellant who is appearing in person was dismissed by the learned Single Judge refusing to accept his argument that the circular dated 27.09.2013 giving concession in age of 5 years to unemployed domiciles of the State of Chhattisgarh be also extended to him, even though he is said to be a Government Employee and is governed by other set of circulars.

3. He perceived discrimination in the said circular and therefore, he also wanted a direction that the Chhattisgarh Public Service Commission's advertisement dated 10.10.2018 should also incorporate such relaxation in age.
4. The learned Single Judge took note of the circular in question and had this to say as to the reason for dismissing the writ application:

“4. Per contra, counsel appearing for the respondents took the Court through Annexure (P-4). Annexure (P-4) is a special relaxation which has been extended by the State Government to only the unemployed youths of the State of Chhattisgarh. As such that would be applicable only to a special category if cannot be extended to the general citizens for whom the upper age limit for all practical purposes would remain 35 years. More over according to the respondents rules governing the field have provision for relaxation age according to which for government employee the upper age limit would be 38. The advertisement also envisages the Clause for the government employee to apply with upper age limit upto 38 years. Thus the petitioner is not entitled for the benefits that has been claimed.

5. Having heard the contentions put forth on either side and perusal of the records particularly the advertisement under challenge what is clearly reflected is that while fixing the age criteria the respondent authorities had taken into consideration the rules, provisions as it stands on the date and as per the rules, government employee is entitled for age relaxation of three years which the respondents have maintained in the advertisement and as such it cannot be said that the advertisement is contrary to rules. So far as the benefits which has been extended to unemployed youth is concerned, the circular Annexure (P-4) dated 21.03.2017 clearly stipulates that it is meant for an exclusive category of persons that is the unemployed educated youths in the State of Chhattisgarh. This relaxation which has been given by the State Government is with a specific object and intention of ensuring that the educated unemployed youth in the State could be benefited by providing them special relaxation for participating in the recruitment process by enhancing upper age limit to a certain extent. That situation cannot be extended to the category of persons who are already in government employment.

6. So far as the general rules is concerned the upper age limit even as per advertisement is fixed to be 35 years for a domicile of Chhattisgarh and for a candidate who belong from the outside State, it would be 30 years. Thus the opinion of the Court is that the reasonable classification which has been made by the Government

is with clear intentions and purpose in accordance with the rules. The advertisement therefore cannot be said to be either arbitrary or mala fide for any reason.”

5. Since the circular in question was meant for benefit of providing employment to a class of persons who were unemployed in the State of Chhattisgarh, therefore, we do not feel that such circular violates Article 14 and 16 of the Constitution of India. If a person is already in employment and he wants to augment as well as enhance his opening in life, he should either look for the same within the service itself or should have availed of the benefit which is otherwise available to a Government servant which is relaxation in age for a period of 3 years over and above 35 years of age.
6. In the above facts and circumstances, it is not that the State Government employees have not been given a similar kind of concession in age, but a policy directed against a class of people can not be expanded to include persons who do not form a homogeneous group.
7. Writ appeal has no merit. It is dismissed.

Sd/-

(Ajay Kumar Tripathi)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge