

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**  
**WPS No. 522 of 2019**

Kumari Artee D/o Late Shri Shyam Sunder Mishra Aged About 48 Years Working As Assistant Grade-III, and Posted At Public Prosecution Officer, Durg, District- Durg, Chhattisgarh.

---- **Petitioner**

**Versus**

1. State of Chhattisgarh Through Secretary Department of Home, Mahanadi Bhawan, Mantralaya, Atal Nagar, Raipur, District- Raipur, Chhattisgarh.
2. Director Public Prosecution State of Chhattisgarh, Indrawati Bhawan, Atal Nagar, Raipur, District- Raipur, Chhattisgarh.
3. Deputy Director (Public Prosecution) Durg, District- Durg, Chhattisgarh.
4. Smt. Karuna Toppo, Assistant District Public Prosecution Officer, Deputy Director Public Prosecution Office, Raipur, Distt. Raipur, Chhattisgarh
5. Dhawal Kumar Sinha, Assistant District Public Prosecution Officer, Deputy Director Public Prosecution Office, Surajpur, District- Surajpur, Chhattisgarh.

-----**Respondents**

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| For Petitioner | : | Mr. Ajay Shrivastava, Advocate.           |
| For State      | : | Mr. Ghanshyam Patel, Government Advocate. |

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**Hon'ble Shri PR Ramachandra Menon, Chief Justice &**  
**Hon'ble Shri Justice Parth Prateem Sahu**  
**Judgment on Board**

**Per PR Ramachandra Menon, CJ**

**28.11.2019**

1. The petitioner has moved this Court with the following prayers :-

“(i). That, this Hon'ble Court may kindly be pleased to hold the provision of schedule -II of Rule 2008 which prescribes maximum age of 40 year as ultra vires being arbitrary and unconstitutional, in the interest of justice.

(ii). That, this Hon'ble Court may kindly be pleased to direct respondent to consider and promote the petitioner from the date junior respondent No.4 and 5 have been promoted and to give seniority above them and all consequential benefits, in the interest of justice.

(iii). Any other relief which may be suitable in the facts and circumstances of the case may also be granted.

2. We have heard Shri Ajay Shrivastava, learned counsel appearing for the petitioner as well as Shri Ghanshyam Patel, the learned Government Advocate representing the State.
3. In the course of hearing, it is brought to the notice of this Court that issue projected herein was exactly similar to the issue raised in Writ Petition (S) No.2873/2019 and other connected cases. The aforesaid cases came up for final hearing before this Court and as per judgment dated 24.10.2019, the writ petitions were allowed. Paragraph Nos. 29 - 30 of the said judgment are extracted below :-

“29. In the light of the above declaration of law and the discussion made above, we are of the firm view that the Petitioners have succeeded in establishing their case as to the irrationality and lack of nexus to the object sought to be achieved stipulating 40 years as the maximum age for promotion of law graduates having 7 years' of experience as AG-III to the post of ADPPO. Accordingly, we declare that the prescription of ceiling/age bar at 40 years for being promoted to the post of ADPPO from the feeder category post of AG-III, of persons having Law degree with 7 years experience, as stipulated in the II Schedule to Rule 6 of the Chhattisgarh Lok Abhiyojan (Rajpatrit) Bharti Evam Padonnati Niyam, 2008 is arbitrary, discriminatory and irrational, having no nexus to the alleged object of bringing better efficiency to the system. It stands set aside as violative of Article 14 and 16 of the Constitution of India.

30. We direct the official Respondents to consider the candidature of the Petitioners herein, who are qualified in all other respects, notwithstanding the age factor and to promote them to the post of ADPPO in any of the existing vacancies or in the next arising vacancies forthwith. It is also made clear that the Petitioners shall be placed an appropriate level, protecting their seniority with effect from the date on which their juniors were given appointment as ADPPOs and their salary shall be fixed and disbursed on notional basis. The Petitioners, however, will not be entitled to get arrears of any monetary benefits because of such notional fixation of seniority.”

4. In the said circumstances, this writ petition also stands allowed in terms of the common judgment as above.

Sd/-

**(PR Ramachandra Menon)**  
**Chief Justice**

Sd/-

**(Parth Prateem Sahu)**  
**Judge**