

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 2588 of 2012**

Aklesh Kumar Sahu S/o Shri Ishwar Ram Sahu, R/o Gram Post Katal Board, Tahsil Kurud, District - Dhamtari (C.G.)

---- **Petitioner**

Versus

1. State Of Chhattisgarh, Through the Secretary, Department of General Administration, D.K.S. Bhawan, Raipur, (C.G.)
1. State Of Chhattisgarh, Through the Secretary, Department of Finance and Planning, D.K.S. Bhawan, Raipur, (C.G.)
2. Collector, Dhamtari, District Dhamtari (C.G.)
3. Sagar Ram Sahu, S/o Shri Gulab Ram Sahu, posted as Driver in the office of Sub-Divisional Magistrate, Kurud, District Dhamtari, (C.G.)
4. Shyamlal Sahu, Shri Jageshwar Sahu, posted as Driver in the office of Upper Collector, Dhamtari, District Dhamtari, (C.G.)

---- **Respondents**

For Petitioner	:	Mr. R. K. Pali, Advocate
For State	:	Mr. Ayaz Naved, GA

Hon'ble Shri Justice P. Sam Koshy**Order on Board**

23/08/2019

1. The challenge in the present writ petition is to the inaction on the part of the respondents in not considering the candidature of the petitioner for appointment to the post of Driver as per the advertisement dated 24.11.2011.
2. Contention of the petitioner is that vide the advertisement the maximum age limit prescribed was 35 years of age. The date of birth of the petitioner was 04.02.1971. According to the petitioner he belongs to the OBC category and he was entitled for 5 years of age relaxation for the purpose of participating in the recruitment process. He further submits that on the date of advertisement the petitioner was working as a Contractual Driver

with the State Government since March, 2009 onwards. Therefore, the petitioner would also have the advantage of 3 years of further relaxation so far as age is concerned which would permit the petitioner to participate in the recruitment process till he attains the age of 43 years. The petitioner in support of his contentions for grant of 3 years of relaxation for having worked as a contractual driver relied upon Annexure P-7 circular dated 30.01.2012. So far as the contention of the petitioner with the circular Annexure P-7 dated 30.01.2012 has been before the last day for applying is concerned, the same also may not come in favour of the petitioner as the advertisement as such never had a clause of giving any relaxation so far as contractual employees are concerned.

3. Having gone thorough the circular dated 30.01.2012, this Court finds that said circular has been issued or published much after the advertisement was published and therefore circulars which have been subsequently brought into force may not be applicable for those advertisement which have been already set in motion before the circular of 30.01.2012 was published.
4. As per the advertisement Annexure P-1, the maximum age limit for a candidate from the Chhattisgarh who belongs to the OBC category was 35+5 which is 40 years. The petitioner admittedly was more than 40 years of age on the date of advertisement. He was 40 years and 10 months aged on the date of advertisement which clearly disentitles him from participating in the recruitment process.
5. Under the circumstances, this Court is of the opinion the petitioner as such may not have a right created in his favour for the purpose of circular subsequently brought into force after the advertisement was published. The circular also is not very specific as to whether it would be applicable upon all those advertisement and recruitment process initiated in the past and which have not been concluded.

6. Given the fact, this Court does not find a strong case made out by the petitioner calling for an interference for issuance of a writ as has been sought for by the petitioner in the present writ petition.
7. Accordingly, the writ petition fails and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge

Rohit