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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 538 of 2017**

{Arising out of Order dated 11.03.2016 passed in OA No. 427 of 2012 by the Central Administrative Tribunal, Jabalpur Bench, Circuit Sitting Bilaspur}

Amit Kumar S/o Shri Jaipal Aged About 35 Years Devridih Old Power House,
Near Satbahania Temple, Sudarshan Basti, Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. The Comptroller And Auditor General Of India 9, Deen Dayal Upadhyay Marg, New Delhi- 110124
2. The Accountant General Audit, Office Of The Accountant General, Baloda Bazar, Zero Point, Vidhan Sabha Raod, Post Mandhar, Raipur, Chhattisgarh- 493111
3. The Principal Director Of Audit, Construction Building, South Eastern Central Railway, Bilaspur, Chhattisgarh
4. Shantilal (MTS), S/o Shri Ramdhin Khandey, Office Of The Pda, South Eastern Central Railway, Bilaspur, Chhattisgarh
5. Pramod Kumar (MTS) (A&E), S/o Shri Gaokaran Baghel Office Of The Accountant General, Baloda Bazar, Zero Point, Vidhan Sabha Raod, Raipur, Chhattisgarh

---- Respondents

For Appellant	: Shri Amit Soni, Advocate.
For Respondent/Uol	: Shri B. Gopa Kumar, Assistant Solicitor General

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

Order on Board**Per Ajay Kumar Tripathi, Chief Justice****23/01/2019**

1. Original Application No. 427 of 2012 was filed by the present Petitioner before the Central Administrative Tribunal, Jabalpur Bench, Circuit Sitting Bilaspur (*for short 'the Tribunal'*) for quashing of a merit list dated 01.02.2012 by virtue of which the benefit of appointment under the

Respondent-Accountant General Office could be extended on the post of Multi Tasking Staff.

2. In the Original Application, it was pleaded that the Petitioner belongs to the Scheduled Caste community and he applied for the post of Multi Tasking Staff on the basis of an advertisement issued by the Respondents. However, when the final merit list was prepared and notified, he did not find his name. He obtained information under the Right to Information Act, where he found that he had secured 61 marks whereas people with lesser marks had been selected and appointed.
3. On the face of the pleading, the argument looked attractive but it seems that there were reasons for non-appointment of the Petitioner on the post of Multi Tasking Staff.
4. In the return filed before the Tribunal, the Department explained the anomaly by taking a stand that persons with more marks and merit came to be appointed in the Scheduled Caste category. Therefore, there was no discrimination in non-selection of the Petitioner under his category.
5. So far as consideration of the case of the Petitioner in general category is concerned, it was pointed out to the Tribunal that clause (vii) of the advertisement itself clearly laid down that persons eligible for consideration under the general category should not be less than 18 years or more than 27 years of age. The benefit of age relaxation available to a Scheduled Caste/Scheduled Tribe/Other Backward Class candidate will not be available if considered in general category. In other words, the terms and conditions including eligibility which was prescribed in the advertisement for a general category candidate would form the basis for consideration for appointment even if that person belonged to reserved category.

6. Admittedly, the Petitioner is over age under the general category candidates. Therefore, he lost his chance for consideration even as a general category candidate with 61 marks.
7. The two reasons became the basis for dismissing the Original Application and refusal by the Tribunal to pass any direction or grant any relief of re-working the merit list or considering the case of the Petitioner for appointment as a Multi Tasking Staff.
8. Before us, an effort is made on behalf of the counsel for the Petitioner that in terms of clause (viii) of the advertisement, the Petitioner ought to have been extended the benefit of age relaxation for the period he had worked as a casual labour under the respondent authorities as has been envisaged in the said advertisement. Since that was not done, the order of the Tribunal ought to be interfered with.
9. We have gone through the Original Application and the pleadings. The argument which is sought to be made before us based on clause (viii) of the advertisement was neither part of the pleading or part of the argument made before the Tribunal. We find reason as to why it was so because admittedly, the Petitioner was not hired as a casual labour by the Department which would make him eligible for age relaxation for the period of service which he had rendered. In fact, he had specifically pleaded in para 4.4 of the Original Application that he was working as a casual labour through outsourcing arrangement and therefore deliberately, in our opinion, clause (viii) of the advertisement was not pressed into service before the Tribunal as an alternative argument looking for benefit of age relaxation.
10. If that be so, then there is no occasion for this Court to interfere with the decision of the Tribunal on the given assertions and explanations as to why the Petitioner's name did not figure in the shortlisted candidates either in the

category of Scheduled Caste/Scheduled Tribe/Other Backward Class category or when he was considered under the general category. We do not find any irrationality in the non-selection of the Petitioner or refusal of the Tribunal to grant him relief in his Original Application.

11. The writ application therefore stands dismissed being devoid of merit.

Sd/-
(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-
(Parth Prateem Sahu)
JUDGE