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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4602 OF 2019

Bholasing S/o Mohansingh Bais
Age: 49 years, Occ Nil,
R/o Mahatma Fule Ward, Ramtek,
At Post - Ramtek

..PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary,
Public Health Department
Mantralaya, Mumbai - 32
2. The Collector / President
District Selection Committee Latur
3. The Chief Executive Officer,
Zilla Parishad, Latur
4. The District Health Officer
Zilla Parishad, Latur

..RESPONDENTS

WITH

WRIT PETITION NO. 4637 OF 2019

1. Sanjaykumar S/o Shankarrao Bhure
Age: 50 years, Occu.Nil,
R/o House No. 289, Dawha Road,
Near Ekvira Steap, Dattatreya Nagar,
Yavatmal
2. Sudam S/o Dnyaneshwarrao Paropate
Age: 46 years, Oc. Nil,
At Post Dhabha (Pahur), Tal. Babhulgaon,
Dist.Yavatmal

..PETITIONERS

VERSUS

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1. The State of Maharashtra
Through its Secretary,
Public Health Department
Mantralaya, Mumbai - 32
2. The Collector / President
District Selection Committee Latur
3. The Chief Executive Officer,
Zilla Parishad, Latur
4. The District Health Officer,
Zilla Parishad, Latur

..RESPONDENTS

Mr V. C. Patil Ashtekar, Advocate for petitioners;
Ms R.P. Gaur, A.G.P. for respondent No. 1 & 2;
Mr P.R.Tandale, Advocate for respondent No. 3 & 4

**CORAM : PRASANNA B. VARALE
AND
NITIN W. SAMBRE, JJ.**

DATE : 11th April, 2019

ORAL ORDER:

Heard learned Counsel appearing on behalf of the petitioners.

2. Since both petitions involve common issue, they are heard together and are being decided by this common order.

3. The petitioners are before this Court raising a challenge to an advertisement issued by respondent no.3 - Chief Executive Officer, Zilla Parishad, Latur.

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4. The submission of the learned Counsel is, the eligibility criteria referred to in the advertisement insofar as age relaxation is concerned, the respondents - authorities and more particularly respondent no.3 could not have prescribed the upper age limit on the backdrop of the order of this Court, dated 22nd November, 2011 in Writ Petition No.8070 of 2011 and Writ Petition No.8072 of 2011 and the fact that the petitioners have worked as Multipurpose Health Workers for a considerable length of period.

5. The petitions are taken up for hearing/disposal as the learned Counsel appearing on behalf of respondent nos.3 and 4 submitted that he is ready to advance his submissions on the challenge raised in the petitions.

6. Perusal of copy of the advertisement shows that respondent no.3, for filling up various posts issued the advertisement calling upon the eligible candidates to submit their applications by way of an on-line process. The calendar fixed for filling up of the vacancies is from 26th March, 2019 to 16th April, 2019. There are as many as 12 various posts and in all 286 vacancies are sought to be filled in. The petitioners are desirous of staking their claim for the posts of Health Worker (Male). 87 posts of Health Workers (Male) are to be filled in as per advertisement No.1 of 2019. It may be necessary for us to refer to the requisite eligibility criteria of age and its relaxation. For the post of Health Worker (male), the minimum prescribed age limit is 18 years, maximum is 45 years for general candidates as well as for the candidates belonging to reserved categories.

7. The submission of the learned Counsel for the petitioners is, the petitioners have worked as Health Workers for considerable length of period. In support of his submission, learned Counsel invited our attention to a certificate issued in favour of the petitioners through District Malaria Officer, Nagpur and Yavatmal, respectively, placed on record at Exh.B. Perusal of this certificate shows that the petitioners worked in National Programme as part time employees from 22nd September, 1996 to 31st December, 2016 (actual working 588 days) and from 1998 to 2005 (actual working 157 days), respectively.

8. With aforesaid submission, the learned Counsel made an attempt to draw support from the judgment of the Division Bench of this Court, dated 22nd November, 2011 in Writ Petition No.8070 of 2011 and Writ Petition No.8072 of 2011. The Division Bench while considering these writ petitions took into consideration the fact situation that the petitioners have worked for many years and have crossed the age limit, as such they should be permitted to participate in the selection process treating them as in-service candidates.

9. Per contra, learned Counsel appearing on behalf of respondent nos.3 and 4 submitted that post the order of the Division Bench of this Court, dated 22nd November, 2011, the State Government in its wisdom considered the very issue of relaxation of the age criteria and in the Govt. Resolution dated 21st October, 2014 the State Government arrived at a

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decision that those employees who were temporary employees and have worked in the National Scheme for 90 days maximum in a calendar year, they are entitled for relaxation of the age limit. Thus, it was the submission of the learned Counsel for respondent nos.3 and 4 that the State Government thought it fit to specify the working days per calendar year so as to remove the doubts insofar as the length of period being treated either vaguely or leaving a scope for the guess work.

10. Learned Counsel for respondent nos.3 and 4, on the backdrop of Govt. Resolution dated 21st October, 2014 submitted that the material placed on record by the petitioners themselves insofar as their actual working is concerned, none of the documents show that they have worked for 90 days in a calendar year, which is the requirement as per the Govt. Resolution dated 21st October, 2014. Learned Counsel thus submitted that the claim of the petitioners is based only on assumptions and presumptions without there being any satisfactory and supportive material in their favour.

11. We find considerable merit in the submission of learned Counsel appearing for respondent nos.3 and 4. We also state that though the learned Counsel for the petitioners made an attempt to draw support from the order of the Division Bench of this Court, dated 22nd November, 2011 and there cannot be any dispute on the view adopted by the Division Bench on the backdrop of the fact situation prevalent at the relevant time post the order of the Division Bench, dated 22nd November, 2011, the

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State Government made the position clear by Government Resolution dated 21st October, 2014. As such, the petitions being thoroughly meritless we see no reason to show any indulgence. Writ Petitions thus stand dismissed at the threshold.

(NITIN W. SAMBRE, J.)

(PRASANNA B. VARALE, J.)

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