

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 8119/2017.

Dr. Sapan Brijmohan Jain and others.

-VERSUS-

Central Council of Indian Medicine and others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri U.J. Deshpande, Advocate for Petitioners.
Ms. M.A. Barabde, A.G.P. for Respondent Nos.2,3 and 5.

CORAM : R.K. DESHPANDE &
VINAY JOSHI, JJ.

DATE : JUNE 20, 2019.

Heard.

2. Petitioners are working in a Private un-aided Ayurvedic College and are desirous of getting appointment to the post of Professor in Maharashtra Ayurvedic Service Group-A in Government Ayurvedic College in the Directorate. The challenge in this petition is to the proviso below sub-clause[i] of Clause [b] of Rule of the Recruitment Rules. Rule 3 of the recruitment rules along with the proviso is reproduced below :

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“3. Appointment to the post of Professor in the Maharashtra Ayurvedic Service Group 'A' in the Government Ayurvedic College in the Directorate shall be made either -

(a) by promotion of a suitable person on the basis of strict selection with due regards to seniority from amongst the person holding the post of Associate Professor having not less than five years regular service in that post.

Provided that, Associate Professor in Sanskrit or Sankrit Sambrta Siddhanta who do not possess qualification prescribed for appointment by nomination under clause [b][ii] of this rule, will not be eligible for promotion to the post of Professor in Ayurvedic Subject,

OR

(b)by nomination from amongst the candidates, who -

[i] are not more than fifty years of age;

Provided that the age limit may be relaxed by five years in case of candidates who are already in the service of Government”

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3. According to petitioners, the rule provide relaxation in the age of 5 years in case the candidates who are already in service of the government. According to petitioners, similar treatment should be given to the eligible candidates working in private unaided colleges.

4. We are unable to accept the challenge for the reason that it is a legislative policy and wisdom. There is no question of violation of fundamental right in making relaxation available to the candidates in government service in case of recruitment in the establishment of the State Government. Writ Petition is, dismissed. No costs.

JUDGE**JUDGE**

Rgd.