

6th December, 2021
(D/L No.17)
(SKB)

W.P.A. 13129 of 2019
(Via Video Conference)

Madhusudan Barik
Versus
The State of West Bengal and others

Mr. Shibaji Kumar Das,
Ms. Supsa Sreemani
... for the petitioner.

Mr. Biswabrat Basu Mallick,
Mr. Sajal Kumar Pandit
... for the State.

Mr. Monish Sen,
Ms. Oisani Mukherjee
... for the College.

The only question which the court is called upon to decide at this stage is to whether the petitioner can be given appointment to the post of Library Peon in the concerned College after the petitioner has successfully qualified in the selection process.

Learned counsel appearing for the petitioner places an order passed by a learned Single Judge of this court on 27th July, 2019 which directed the concerned respondents to allow the petitioner to participate in the walk-in interview scheduled to be held on 28th July, 2019 upon condonation of the age bar. The court was pleased to observe that the petitioner's participation in the interview would not create any equity in favour of the petitioner and if the petitioner succeeded in the selection process, the

petitioner would not be given appointment to the concerned post without leave of the court.

Learned counsel appearing for the College and the State submits upon instructions that the petitioner has successfully qualified the selection process and is placed in the top of the Panel. The State, however, submits that the petitioner has crossed the age limit and there is no provision to condone the case of the over age candidates.

Upon hearing learned counsel for the parties, it is clear from the order dated 22nd July, 2019 that the petitioner's existing age limit was considered by the learned Judge and the respondents were directed to allow the petitioner to participate in the walk-in interview upon condonation of age bar. The argument of the petitioner having crossed the age limit is, therefore, no longer material for the consideration of this court.

Further in *Satya Prakash and others vs. State of Bihar and others: (2010)4 SCC 179* the Supreme Court was pleased to hold that both the selection process in that case were not completed by the Council and the Council was no longer in existence. The applications submitted by the appellants before the Board should be considered after giving age relaxation. The Supreme Court relied on *Umadevi's* case in this context, where the Constitution Bench of the Supreme Court permitted several persons to participate in the

selection process waiving the age relaxation and giving due weightage to such persons who have been engaged in the department for a significant period of time.

In the present case, the petitioner has been working as a casual employee since 2010 and participated in the selection process in 2019. The petitioner should therefore be given weightage for the long service rendered to the College.

In view of the above, the respondent no.2 being the Director of Public Instructions, Government of West Bengal, is directed to approve the panel which has been placed before the said respondent sometime in 2019 in the matter of appointment of the petitioner. The concerned respondent shall thereafter proceed to give appointment to the petitioner to the post of Library Peon without any further delay. The entire process should preferably be completed within 22nd January, 2022.

W.P.A.13129 of 2019 is disposed of in terms of the above.

Urgent photostat certified copy of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Moushumi Bhattacharya, J.)