

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

WRIT PETITION NO. 5786/2019

(KISHOR SAHEBRAO BAGADE **VERSUS** STATE OF MAHARASHTRA & ANOTHER)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri P.S. Patil, counsel for the petitioner.

Ms N.P. Mehta, Assistant Government Pleader for the respondents.

CORAM : A. S. CHANDURKAR AND MRS.VRUSHALI V. JOSHI, JJ.

DATE : JANUARY 17, 2023.

The petitioner was appointed as a Seasonal Spraying Worker in 1998 with the respondent no.2-District Malaria Office, Amravati. The appointment was for a fixed tenure but was continued from time to time. On 21.01.2016 the respondent no.2 issued an advertisement inviting applications for the posts of Multipurpose Health Worker. Some posts were required to be filled in from Seasonal Spraying Workers having experience of minimum ninety days. The petitioner who is born on 01.11.1970 sought to submit his online application but the same was not accepted on the ground that he had completed forty five years of age at the time of issuing the advertisement. In this backdrop the petitioner approached the Maharashtra Administrative Tribunal seeking to raise a challenge to the age limit of forty five years prescribed by Rule 3(b)(i) of the Health Workers (Male) Group-C on the establishment of Directorate of Health Services under the Public Health Department (Recruitment) Rules, 2014. The Tribunal considered the claim of the petitioner but held that there was nothing discriminatory or arbitrary in prescribing the upper age limit of forty five years for being eligible to seek appointment. The original application was dismissed by the judgment dated 10.08.2018. Being aggrieved the said order is challenged in the present writ petition.

On hearing Shri P.S. Patil, learned counsel for the petitioner and Ms N.P. Mehta, learned Assistant Government Pleader for the respondents we do not find any reason whatsoever to interfere with the order passed by the Tribunal. It has been noted by the Tribunal that though initially the upper age limit was thirty three years, pursuant to the judgment of this Court in *Sandip D. Borse Versus State of Maharashtra & Others* [Writ Petition No. 6215 of 2009] decided on 05.11.2009 the age limit of thirty three years was raised to forty five years. The Rules were accordingly amended *vide* notification dated 02.06.2015. It is on this basis that the present recruitment has been undertaken. We find that the extension of the age limit from thirty three to forty five was with a view to safeguard the interest of seasonal workers who were serving in the Department for a long period. Prescribing the age of forty five years in that process can hardly be said to be arbitrary or illegal. It is for the State Government to consider the suitability of the applicants who seek appointment on the post of Multipurpose Health Workers and if the upper age limit is fixed at forty five years, the choice of that age cannot be said to be either irrational or arbitrary to warrant interference. The Tribunal having considered all relevant aspects and having found nothing illegal therein, we do not find any reason to interfere in writ jurisdiction.

The writ petition is thus dismissed with no order as to costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A. S. CHANDURKAR, J.)

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