

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% *Reserved on: January 17, 2023*
Pronounced on: January 20, 2023

+ **W.P.(C) 90/2023 & CM APPL.295/2023**

SACHIN & ORS. Petitioners
Through: Mr. Ajay Garg, Ms. Tripti Gola,
Ms. Lhingdeihat Chongloi, Mr.
Arvind Sardana & Mr. Harjot
Singh, Advocates

+ **W.P.(C) 301/2023 & CM APPL.1186/2023**

ANURAG SHARMA & ORS. Petitioners
Through: Mr. Ajay Garg, Ms. Tripti Gola,
Ms. Lhingdeihat Chongloi, Mr.
Arvind Sardana & Mr. Harjot
Singh, Advocates

Versus

CENTRAL RESERVE POLICE FORCE & ANR. Respondents
Through: Mr. Harish Vaidyanathan Shankar,
CGSC with Mr. Srish Kumar
Mishra, Mr. Sagar Mehlawat & Mr.
Alexander Mathai Paikaday, Ms.
Anubha Bhardwaj & Mr. Dev P.
Bhardwaj and Mr. Vivek Nagar,
Advocates

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

JUDGMENT

SURESH KUMAR KAIT, J.

1. The above-captioned two petitions have been filed by the petitioners seeking a direction to the respondents for relaxation of the upper age limit for appearing in examination for recruitment to the post of Head Constable (Ministerial) in CRPF-2022 vide advertisement issued on 27.12.2022.

2. Since the subject-matter of both the captioned petitions is similar, therefore, with the consent of learned counsel for parties, these petitions were heard together and are being disposed of by this common judgment.

3. The facts giving rise to the present petitions are that an advertisement for recruitment to the post of ASI (Steno) Head Constable (Ministerial) in CRPF-2022 was uploaded on the website on 27.12.2022 inviting the interested applicants. The last date for applying to the said post is 25.01.2023. The scheme of the examination comprises of Computer Based Test, Skill Test, Physical Standard Test (PST), Documents Verification (DV), Detailed Medical Test (DME) & Review Medical Test (RME). The age limit of candidates prescribed therein is from 18 to 25 years as on the closing date of receipt of application i.e. 25.01.2023, meaning thereby, a candidate should not be born before 26.01.1998 or after 25.01.2005.

4. The grievance raised by the petitioners in these petitions is that respondent No.1 had issued a detailed advertisement in 2016 for filling-up 686 vacancies for direct recruitment to the post of Head Constable (Ministerial) but the petitioners herein could not be selected. Thereafter, only on 27.12.2022, i.e. after a period of six years, an advertisement for filling-up vacancies to the said post has been issued. The petitioners are

aggrieved that the age limit of the candidates prescribed for the said posts is from 18 to 25 years but since no recruitment was conducted arbitrarily for last 5-6 years, the petitioners have become over-aged and have crossed the maximum prescribed age limit, i.e. 25 years and thereby, unable to apply for the said examination.

5. During the course of hearing, learned counsel for petitioners submitted that Department of Personnel and Training (DoPT) vide its numerous Office Memorandums dated 13.06.2016, 23.06.2016, 02.11.2016 and 23.12.2016 has mandated that all Government Departments/Organisations shall post all the vacancies on the National Career Services (NCS) Portal in a timely manner. However, since the respondent No.1 has not been posting the vacancies for the post of Head Constable (Ministerial) for the last 5-6 years, therefore, some of the petitioners filed a writ petition being WP(C) No.3874/2022 before this Court seeking a direction to the respondents to conduct the recruitment for the said post without any delay and to relax the upper age limit. According to petitioners, this Court vide order dated 08.03.2022 in the said petition had directed the respondent No.1 to act upon the said Office Memorandum No.F.No.43014/03/2019-Estt(B) dated 21.01.2020 issued by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training within a period of six weeks. Even thereafter, when no notification regarding filling-up of vacancies of the post in question was issued by the respondents, the petitions preferred a Contempt Petition being CONT.CAS(C) No.531/2022 against the respondents, wherein this Court vide order dated 30.08.2022, deferred the

orders in view of pendency of a Review Petition No.192/2022 filed by the respondents. In the said review petition, the respondents admitted that vacancies for the post of Head Constable (Ministerial) were lying vacant for the years 2018, 2019, 2020 and 2021. The said review petition was disposed of by this Court vide order dated 28.10.2022 with directions to the respondents to complete the recruitment process for the said vacancies within eight months.

6. Learned counsel for the petitioners strenuously submitted that the main reason for petitioners being age barred is the fact that the respondent No.1 did not conduct any examination for recruitment to the post of Head Constable (Ministerial) for the year 2017, 2018, 2019, 2020 and 2021.

7. Learned counsel further submitted that the examinations for the post of Head Constable (Ministerial) for the year 2020 and 2021 could not be conducted possibly due to Covid-19 pandemic, however, if the petitioners are not permitted to appear in the recruitment process/examination for the said post for the year 2022, they would be deprived of their legitimate rights under Article 14 of the Constitution of India.

8. Learned counsel further submitted that relaxing the upper age limit as “One Time Measure” of the petitioner shall enable them to appear in the examination for the post of Head Constable (Ministerial) for the year 2022.

9. Learned counsel for petitioners also submitted that Rule 9 of Central Reserve Police Force Act, 1949 gives power to the respondent

No.2 to relax the rules. The Rule 9 Central Reserve Police Force is reproduced as under:

“9. Power to relax.- Where the Central Government is of the opinion that it is necessary or expedient so to do, it may, by order, for reason to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons.”

10. To strengthen his arguments, learned counsel for the petitioners submitted that in a recent advertisement for recruitment to the post of Constable (GD) in CAPF, three years age relaxation has been given to all categories of the candidates as “One Time Measure”.

11. Learned counsel for petitioners had also drawn attention of this Court to advertisement dated 22.04.2022 issued by Directorate General, SSB, Ministry of Home Affairs, Government of India for selection to the post of Assistant Commandant (GD) in CAPFs through Limited Department Competitive Examination-2018, 2019, 2020, 2021 & 2022. In the said advertisement, in para 4 (a), the upper age limit mentioned is 35 years which is reproduced as under:

*“4. (a) **Age**:- The upper age limit for appearing in the LDCE will not be more than 35 (Thirty Five) years as on 1st August of particular vacancy year. The cut off date for calculation of age of candidates for different vacancy years will be as under:-*

<i>Sl. No.</i>	<i>Vacancy Year</i>	<i>Cut off date</i>
1.	2018	01.08.2015
2.	2019	01.08.2019
3.	2020	01.08.2020
4.	2021	01.08.2021
5.	2022	01.08.2022

12. Learned counsel for petitioner further submitted that pursuant to publication of the advertisement in question, petitioners had made a representation to the respondents seeking relaxation of upper age, however, no response thereto has been received. Hence, the petitioners have approached this Court seeking a direction to the respondents for giving minimum four years age relaxation to all the categories enabling them to appear in the examination.

13. On the other hand, learned Central Government Standing Counsel (CGSC) submitted that the last recruitment for the post of Head Constable (Ministerial) was conducted in the year 2016 and completed in September, 2017 and also the Ministry of Home Affairs vide its Order No.45020/1/2019/Legal-I dated 19/08/2019 increased the superannuation age from 57 to 60 years. Learned CGSC further submitted that since there was no superannuation between 2019 and 2021, therefore, no vacancies against the retirement for the said period fell out.

14. Learned CGSC also submitted that the age limit for recruitment to the post of Constable (GD) is from 18 years to 23 years which is relaxable up to 05 years for candidates belonging to Scheduled Castes (SC)/Scheduled Tribes (ST) and 03 years for candidates belonging to Other Backward Castes (OBC) candidates. Likewise, the age limit for the post of Head Constable (Ministerial) is from 18 years to 25 years which is relaxable up to 05 years for candidates belonging to SC/ST and 3 years for candidates belonging to OBC candidates.

15. Learned CGSC further submitted that due to unprecedented Covid-19 pandemic, the Ministry of Home Affairs, Government of India vide

letter No.45023/29/2021–Pers Policy-Part(1)/760 dated 26.07.2022 has granted 03 years age relaxation beyond respective prescribed upper age limit for all categories of candidates as a “One-Time Measure” to the candidates of all categories for the recruitment of Constable (GD) in CAPFs, SSF and Rifleman(GD), Assam Rifles Examination 2022 and 2023. The age limit for recruitment for the post of Constable (GD) has been raised from 23 years to 26 years for General candidates, from 23 years to 29 years for OBC candidates and from 23 years to 31 years for SC/ST candidates. If age relaxation is granted as per the aforesaid order dated 26.07.2022, the age limit for the post of Head Constable (M) will be raised from 25 years to 28 years for General candidates, from 25 years to 31 years for OBC candidates and from 25 years to 33 years for SC/ST candidates. Lastly, learned CGSC submitted that the relief sought in these petition deserves to be rejected.

16. In rebuttal, learned counsel appearing on behalf of petitioners submitted that it cannot be presumed without bringing any data on record with regard to superannuation age as there fell out no vacancies on superannuation. Even otherwise, the vacancies have arisen in each year from 2018 to 2022 and because the respondents arbitrarily did not conduct any recruitment process and it is only after the directions passed by this Court, this recruitment drive has commenced. Therefore, the petitioners who have been striving to get recruitment in CRPF cannot be deprived of their legitimate right by being over age. Also, CRPF Rule 9 itself permits relaxation of rules, therefore, it would be in the interest of justice to direct

the respondents to relax the upper age limit of the petitioners to appear in the examination for the post in question.

17. Upon hearing learned counsel representing both the sides and on perusal of the material placed before this Court, we find that in the advertisement dated 27.12.2022, the age limit is from 18 to 25 years. The relevant portion of the said advertisement is as under:

“7. Age Limit:

7.1 Age limit of candidates should be from 18 to 25 years as on closing date of receipt of application i.e. 25/01/2023 i.e. candidate should not born before 26/01/1998 or after 25/01/2005.

7.2 Permissible relaxation in upper age limit for different categories and category codes for claiming age relaxation will be as follows:

<i>Code No.</i>	<i>Category</i>	<i>Age-Relaxation permissible beyond the upper age limit.</i>
<i>01.</i>	<i>SC/ST</i>	<i>5 years</i>
<i>02.</i>	<i>OBC</i>	<i>3 years</i>
<i>03.</i>	<i>Ex-servicemen</i>	<i>3 years after deduction of the military service rendered from the actual age as on the closing date.</i>

04.	Central Government Servants	<i>who have rendered not less than 3 years regular/ continuous service as on closing date are eligible upto the age of 40 years for General/EWS candidates, 43 years for OBC candidates and upto 45 years in the case of candidates belonging to SC/ST.</i>
05.	Children and dependent of victims killed in the 1984 riots or communal riots of 2002 in Gujarat (Un-reserved)	5 Years
06.	Children and dependent of victims killed in the 1984 riots or communal riots of 2002 in Gujarat	8 Years
07	Children and dependent of victims killed in the 1984 riots or communal riots of 2002 in Gujarat (SC/ST)	10 Years

18. There is no dispute to the fact that the respondent No.1, for the reasons best known to it, have been avoiding recruitment process since the year 2017 for the appointment to the post of Head Constable (Ministerial).

This Court is conscious of the fact that during the period 2019-2020, the appointments in Government Departments/Organisations were put to hold, however, we cannot ignore the fact that all the Government Departments/Organisations have been fully functional since the year 2021. It is relevant to mention here that despite petitioners having made various representations to the respondents for conducting examination, like making representations to the Hon'ble President of India, Hon'ble Prime Minister of India and to all the competent authorities, the respondents have not paid any heed to it. Even despite directions of this Court vide order dated 08.03.2022 in WP(C) No.3874/2022, the respondents did not commence recruitment process. It is only when the petitioners therein approached this Court in contempt proceedings, the respondents have now published vacancies for the post of Head Constable (Ministerial) in the year 2022 after a lapse of six years.

19. At this juncture, we do not hesitate to observe that the lethargy and delay in publishing the vacancies for the recruitment to the said post, after a lapse of six years, has curtailed the future prospects of candidates like the petitioners who are willing and striving for appointment in Forces.

20. The Hon'ble Supreme Court in Civil Appeal No 2016 of 2022 (Arising out of SLP (C) No 4452 of 2022) titled as ***High Court of Delhi Vs. Devina Sharma***, wherein petitioner had sought relaxation in upper age limit for appearing in Delhi Judicial Service Examination and Delhi Higher Judicial Service Examination- 2022, on the plea that if High Court of Delhi had conducted examination in the year 2020 and 2021, such

candidates would have been within the age limit in the said years, observed and held as under:-

“18. The time schedule for conducting the recruitment process to the judicial service has been stipulated by the judgment of this Court in Malik Mazhar Sultan (3) vs Uttar Pradesh Public Service Commission 6 . The object and purpose of the directions of this Court has been to ensure that the 6 (2008) 17 SCC 703 CA 2016/2022 10 recruitment process for the judicial service is conducted on schedule every year, subject to the rules of each High Court. The High Court of Delhi held its last examination for recruitment to DJS in 2019. Admittedly, no examination has been held in 2020 or in 2021. The examination for 2020 could not be conducted since the process for 2019 was still to be completed. The examination for 2020 could not be held due to the onset of the Covid-19 pandemic. In this backdrop, since the examination was not conducted for two recruitment years, the High Court has after considering the issue stated before this Court through the learned senior counsel that as a one-time measure, this Court may accept the suggestion that candidates who would have qualified for the examinations were they to be held on schedule for recruitment years 2020 and 2021 in terms of the rules as they then stood, may be permitted to appear for the ensuing examinations.

19. Having regard to the fact that the recruitment examination for DJS has been last held in 2019 and two recruitment years have elapsed in the meantime, we are of the view that the suggestion of the High Court should be accepted for this year. The consequence of the acceptance of the suggestion by this Court, would be that candidates who would have fulfilled the upper age limit of 32 years, for the recruitment years 2020 and 2021 would be eligible to participate in the examination for the ensuing recruitment year 2022. The age bar which they would

now encounter is not of their own volition. The real element of hardship faced by such candidates has been remedied by the CA 2016/2022 11 High Court and there is no reason for this court not to accept the suggestion. The examination cannot however, be postponed indefinitely nor can the candidates who have applied be left in a state of uncertainty. The existing candidates can have no grievance by the widening of the competition. In order to facilitate this exercise, we accept the suggestion of the High Court that the last date for the receipt of application forms shall be extended to 3 April 2022 and the examination shall be held on 24 April 2022. We direct that no impediment shall be caused in the conduct of the examination and no court shall issue any order of stay at variance with or contrary to the above directions of this Court.

Xxxx

28. During the course of the hearing, this Court has been apprised of the fact that several applicants for the higher judicial service examination would have qualified in terms of the upper age limit of 45 years in 2020 or, as the case may be, 2021. As a matter of fact, Mr A D N Rao indicates that he has instructions to the effect that some of those candidates may already have or would be in the process of moving petitions before the High Court. The CA 2016/2022 17 reasons which have weighed with this Court in allowing the High Court, as a one-time measure, to permit candidates for the DJS examination who had qualified in terms of the upper age limit of 32 years during the recruitment years 2020 and 2021, should on a parity of reasoning be extended to candidates for the DHJS examination who would have qualified in terms of the upper age limit of 45 years during the recruitment years 2020 and 2021 during which no examinations could take place for the reasons which have been noticed earlier.”

21. This Court has no contrary view in the facts of the present case as the one taken by the Supreme Court in ***High Court of Delhi Vs. Devina Sharma (Supra)***. In the facts and circumstances of this case and in view of the fact that the candidates like the petitioners have been deprived to seek recruitment in CRPF for no fault of theirs, due to non-conduct of examination by the CRPF and in view of the fact that after 2016 till 2022, no examination for the post of Head Constable (Ministerial) by respondent No.1 was held, we are of the opinion that the petitioners and similarly situated personnel cannot be deprived of the right to appear in the examination. Also when Rule 9 of CRPF grants the power to relax the Rules wherever necessary, in the interest of justice, we find that relaxation of three years in the upper age limit can be given to the candidates who wish to apply pursuant to the advertisement in question. It goes without saying that even if upper age to appear in the said examination is relaxed, the appointments to the said posts would only be governed only after the candidates are successful in the recruitment process i.e. by passing out necessary criteria of Computer Based Test, Skill Test, Physical Standard Test (PST), Documents Verification (DV), Detailed Medical Test (DME) & Review Medical Test (RME).

22. In view of aforesaid observations and in the light of the fact that the last date of applying for the said post is 25.01.2023, we hereby direct the respondents to issue a Corrigendum on or before 25.01.2023 declaring relaxation of age of 03 years as a 'one time measure' and also extending the date of inviting applications for the post in question.

23. With aforesaid directions, these petitions are accordingly disposed of.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

JANUARY 20, 2023
r/rk

