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W.P.No.21226 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 30.07.2024

Pronounced on : 28.08.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.21226 of 2024 and
WMP.Nos.23170 & 23172 of 2024

G.Balasubramanian

... Petitioner

Vs.

The Registrar,
National Institute of Technology,
Thiruvettakudi, Karaikal,
Puducherry 609 609

... Respondent

PRAYER:

Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order dated 12.07.2024 in Ref. Advt No.NITPY / 01 / 2024 /T-NT / 01032024 dated 01.03.2024 passed by the Respondent and to quash the same in so far as the petitioner application number NITPY 2062 at serial No.83 is concerned and consequently direct the respondent to grant age relaxation invoking the Recruitment Rule (2019) for the post of Senior Assistant in NITs read with Government of India instruction / order issued through the Ministry of Human Resource Development, Department of Higher Education, Government of India, New Delhi dated 20.02.2019 and DOPT guidelines



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and consider and appoint the petitioner on becoming successful in the selection / recruitment process.

For Petitioner : Mr.Syed Mustafa
for Mr.K.P.Jotheeswaran

For Respondent : Mr.K.Srinivasa Murthy,
Senior Panel Counsel

ORDER

This writ petition has been filed challenging the provisional selection list dated 12.07.2024 to the post of Senior Assistant in National Institute of Technology (hereinafter called as NIT), Puducherry.

2. The petitioner had applied for the post of Senior Assistant as per the notification issued by the respondent dated 01.03.2024 thereby calling for applications from eligible candidates for recruitment to various posts. The petitioner is a qualified candidate for recruitment to various posts. The petitioner is qualified with B.Sc., M.B.A. and Bachelor of Library and Information Science. He is also qualified with Typewriting English(Senior Grade). That apart, he was already engaged as Data Entry Operator from 16.07.2012 at the University of Pondicherry through



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contract agencies. Thereafter he was engaged as Junior Assistant on contract basis with effect from 30.06.2017 in the respondent institution and he is working till date. The age limit as per the notification is 35 years but the petitioner is 35 years, six months and 14 days old. Therefore, the petitioner was not provisionally selected to the post of Senior Assistant for the reason overage.

3. *Mr.Syed Mustafa*, the learned counsel appearing for the petitioner would submit that the petitioner is already engaged as Junior Assistant in the respondent Institution and he belongs to Other Backward Class. Therefore, he is entitled for age relaxation for three years as per the instruction issued by the Government of India. Further, in addition to that, he is entitled for five years age relaxation in view of the guidelines issued by the Ministry of Human Resource Development, Government of India on 20.02.2019 being a departmental candidate on contract basis. Therefore, the petitioner also submitted representation to consider his candidature for age relaxation.



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4. Heard, the learned counsel appearing on either side and perused all the materials placed before this Court.

5. On perusal of the counter filed by the respondent and on hearing the submissions of *Mr.K.Srinivasa Murthy*, the learned Senior Panel Counsel appearing for the respondent, revealed that the Recruitment Rules of the respondent for non teaching staff as per the recommendations of the Oversight Committee by its proceedings dated 20.02.2019 states that those employees, who were working on *ad hoc* / temporary / contractual / outsource basis may be given one-time relaxation to participate in the first regular recruitment process for the post for which they fulfill the required conditions. It is relevant to extract the provisions under the one-time measure/relaxations hereunder:

“...A. One-time measures/relaxations

(i) Those employees, who are working on *ad-hoc* / temporary/contractual/outsource basis, in RECs/NITs, may be given one-time age relaxation to participate in the first regular recruitment process for the post for which they fulfill all other conditions mentioned in the Recruitment Rules proposed by the Oversight Committee. The quantum of age relaxation may be



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decided by the Board of Governors of the respective NITs.”

5.1 Thus, it is clear that such employee must be working on the above capacities as on the year 2019 i.e. the date of recommendation to be eligible to claim one-time age relaxation in the first regular recruitment process on the institute. It cannot be entertained or applicable to the employees who has joined the institute after the issuance of the order dated 20.02.2019 and cannot claim one time age relaxation as their right. Further, in the order dated 30.11.2017 issued by the Department of Higher Education, Ministry of Human Resource Development, Government of India, clause 2(iv) stipulates as follows:

"Clause 2 (iv) - A faculty is eligible for one-time relaxation if she / he applies in the same NIT/IEST provided that she / he fulfills all other terms & conditions specified in letters dated 6th October, 2017 and 17th November, 2017 respectively. If a faculty applies in any other NIT / IEST, she / he should not be given relaxation. This is applicable for relaxations provided in the above letters."

5.2 It is also applicable for non faculty members. The petitioner



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had already participated in the first regular recruitment process which was notified on 03.07.2019 for the post of Junior Assistant and availed age relaxation and he failed to qualify as per the final merit list. Therefore, the petitioner has already exhausted the one-time age relaxation and he is not eligible to claim age relaxation in the present recruitment process. That apart, the concept of age relaxation was mainly meant to absorb the then appointed people on non-mercantile staff in the Old NITs/RECs since there was no proper Recruitment Rules prevailing at that time. Therefore, the one-time age relaxation was provided in the first regular recruitment process of the respondent in the year 2019. Further, the regular employees of other National Institute of Technologies can participate in the regular direct recruitment process held at different NITs as departmental candidates through which they will be able to get age relaxation for a period of five years beyond the exceeding upper age limit for the respective posts. But insofar as the petitioner is concerned, he is only an outsourcing staff and as such he cannot avail the age relaxation as it is applicable only for regular employees to participate in the regular direct recruitment process. Therefore, the respondent rightly published



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the selection list and mentioned the petitioner as over-aged.

6. Hence, this Court finds no infirmity or illegality in the impugned order passed by the respondent. As such, this writ petition is liable to be dismissed. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

28.08.2024
(1/3)

Neutral Citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To
The Registrar,
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