



2024:DHC:1075



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 06.02.2024

+ **W.P.(C) 1731/2024****BIPIN NAGAR AND OTHERS**

..... Petitioners

versus

**OFFICE OF THE PRINCIPAL DISTRICT AND SESSIONS
JUDGE HEADQUARTER DELHI AND OTHERS**

..... Respondents

Advocates who appeared in this case:

For the Petitioners : Ms. Sriparna Chatterjee, Advocate

For the Respondents : Ms. Laavanya Kaushik, Mr. Nitesh
Kumar Singh, Ms. Aliza Alam and Mr.
Mohnish Sehrawat, Advocates**CORAM:****HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGMENT****TUSHAR RAO GEDELA, J. (ORAL)****[The proceeding has been conducted through Hybrid mode]****CM APPL. 7180/2024**

1. Exemption allowed subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 1731/2024 & CM APPL. 7179/2024 (Interim Direction)

3. This is a writ petition under Article 226 of the Constitution of India seeking a direction in the nature of a Corrigendum to be issued by

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By: VINOD KUMAR
Signing Date: 13.02.2024
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the respondents to relax the age for the post of Senior Personal Assistant, Personal Assistant and Junior Judicial Assistant in respect of an advertisement No.1/2024 dated 12.01.2024 upto 32 years for General category candidates in terms of the notification dated 01.10.2022 of the Delhi High Court as a one-time measure as also for extending the date of inviting application for the posts in question.

4. The case of the petitioners is that they are all young students and graduates, who have only one chance of attempting these examinations since they are already over age in respect of what the advertisement stipulated. The advertisement which was published on 12.01.2024 stipulated the age bracket of 18-27 years.

5. Ms. Sriparna Chatterjee, learned counsel appearing for the petitioner submits that the present petition is filed on account of two aspects namely the nationwide effect of the Covid Pandemic as also the fact that this Court by notification dated 01.10.2022 had given an age relaxation to the similar category persons pertaining to the notification issued by the Delhi High Court under its own Rules.

6. Ms. Chatterjee submits that the petitioners be also given the same age relaxation up to the age of 32 years so as to ensure that the petitioners are also able to participate in the said examination. She further submits that the aforesaid examination, which has been advertised *vide* the aforesaid advertisement, is being conducted after a passage of almost five years, which has deprived the petitioners from a fair and a reasonable chance to participate in the examinations.

7. She submits that the right to attempt an examination in the public realm for public offices cannot be deprived by the respondent, which is



a welfare State, by not giving relaxation as and when it is necessary. She further submits that the petitioner may be given one opportunity to sit for the examination and let the fate decide as to whether they clear the examination or not.

8. This Court has heard learned counsel for the petitioners as also perused the advertisement issued by the DSSSB.

9. It is apparent from the scrutiny of the said advertisement that the same was issued on 12.01.2024 and the last date for filing up the form is 08.02.2024. The petitioners have waited for the entire period of time and have approached this Court only two days before the last date of application.

10. That apart, this Court has also perused the notification dated 01.10.2022 which limits the age between 18-27 years, however, does indeed give age relaxation. The relevant para specifies the relaxation of upper age limit for certain categories of persons, who can attempt the examination. It is clear from the said exception or the relaxation, that the General Category candidates have not been given any kind of relaxation at all.

11. That apart, the petitioners who have come at the eleventh hour seeking such a relief cannot be given any discretion by this Court for the reason that whether the relaxation in age ought to be granted or not is purely a question within the realm of public policy which is decided by the user Department as per its necessity and the Court should be loath in interfering in such matters.

12. That apart, there is no substantive reason submitted by the petitioners for this Court to even issue notice, much less give any



discretionary direction for them to participate in the meanwhile.

13. Learned counsel has also relied upon the judgment of learned Division Bench passed in W.P.(C) 90/2023 titled ***Sachin and Others vs. Central Reserve Police Force and Anr.*** whereby learned Division Bench had interfered in the case and given the age relaxation.

14. Be that as it may.

15. A Three Judge Bench of the Supreme Court in the judgment of ***Rachna and Others vs. Union of India and Another*** reported in (2021) 5 SCC 638 had categorically held that the scheme of age relaxation is a policy matter which is only for the user Department or the Government to decide as to for what reasons such age relaxation ought to be given or not to be given.

16. The Courts are ordinarily not to interfere in such policy decisions, particularly under the judicial review, as it is a limited and circumscribed power so far as policy decisions are concerned.

17. The relevant portions of the judgment of ***Rachna*** (supra) are extracted hereunder:-

“43. It is the settled principle of law that policy decisions are open for judicial review only for limited purpose and the Court can interfere into realm of public policy only if it is either absolutely capricious, totally arbitrary or not informed of reason and has been considered by this Court in Union of India v. M. Selvakumar [Union of India v. M. Selvakumar, (2017) 3 SCC 504 : (2017) 1 SCC (L&S) 668]. The relevant portion is as under:

“47. There is one more reason due to which we are unable to subscribe to the view taken by the Madras High Court [M. Selvakumar v. Central Administrative Tribunal, WP No. 18705 of 2010,



order dated 24-1-2012 (Mad)] and the Delhi High Court [Tushar Kesharao Deshmukh v. Union of India, 2014 SCC OnLine Del 1977] . The horizontal reservation and relaxation for physically handicapped category candidates for Civil Services Examination, is a matter of governmental policy and the Government after considering the relevant materials has extended relaxation and concessions to the physically handicapped candidates belonging to the reserved category as well as general category. It is not in the domain of the courts to embark upon an inquiry as to whether a particular public policy is wise and acceptable or whether better policy could be evolved. The Court can only interfere if the policy framed is absolutely capricious and non-informed by reasons, or totally arbitrary, offending the basic requirement of Article 14 of the Constitution. ”

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45. Judicial review of a policy decision and to issue mandamus to frame policy in a particular manner are absolutely different. It is within the realm of the executive to take a policy decision based on the prevailing circumstances for better administration and in meeting the exigencies but at the same time, it is not within the domain of the courts to legislate. The courts do interpret the laws and in such an interpretation, certain creative process is involved. The courts have the jurisdiction to declare the law as unconstitutional. That too, where it is called for. The court is called upon to consider the validity of a policy decision only when a challenge is made that such policy decision infringes fundamental rights guaranteed by the Constitution or any other statutory right. Merely because as a matter of policy, if the 1st respondent has granted relaxation in the past for the reason that there was a change in the examination pattern/syllabus and in the given situation, had considered to be an impediment for



the participant in the Civil Services Examination, no assistance can be claimed by the petitioners in seeking mandamus to the 1st respondent to come out with a policy granting relaxation to the participants who had availed a final and last attempt or have crossed the upper age by appearing in the Examination 2020 as a matter of right.

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47. The data furnished by the Commission clearly indicates that various selections have been held by the Commission for Central Services in the year 2020 during COVID-19 Pandemic and selections must have been held by the State Commissions and other recruiting agencies. If indulgence is shown to few who had participated in the Examination 2020, it will set down a precedent and also have cascading effect on examinations in other streams. Hence, no interference in exercise of plenary jurisdiction under Article 142 of the Constitution is called for.

48. However, it is clarified that the instant decision would not restrict the 1st respondent or the executive in exercising its discretion in meeting the nature of difficulties as being projected to the Supreme Court, if come across in future in dealing with the situation, if required.”

18. In view of the above and the ratio laid down by the Supreme Court, this Court finds that the petition is devoid of any merit and is dismissed as such, however, without any order as to costs. Pending application also stands dismissed.

TUSHAR RAO GEDELA, J.

FEBRUARY 6, 2024

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