

30.01.2025

Item no.ML58
Court No. 23

Asraf, A.R.(Ct.)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 26913 of 2024

**SRI TRIPTI BISWAS (MONDAL)
VS.
THE STATE OF WEST BENGAL & ORS.**

**Mr. Lal Ratan Mondal
Mr. Probal Sarkar
Ms. Sk. Kiran**

....for the Writ Petitioner

**Mr. Jayanta Samanta, Jr. Govt. Adv
Mr. Kaustav Chatterjee**

....for the State

The petitioner is desirous in participating in a selection process for direct recruitment of Accredited Social Health Activist (in short, "ASHA") Karmee under Karimpur-1 Block against the declared vacancies. The age limit prescribed under the advertisement dated 23rd August, 2024 for general candidates is between 30 to 40 years as on the date of advertisement. The petitioner being a candidate under the general category has to satisfy such age criteria. As per the affidavit appended to the writ petition, the petitioner is aged about 51 years. The petitioner is seeking age relaxation to enable her to apply against the employment notification dated 23rd August, 2024.

The law is well-settled that the eligibility criteria which includes age limit is to be adhered to unless a contrary intention is expressed in the advertisement itself. On a perusal of the advertisement no contrary intention is apparent. In this context, one may refer to the judgments reported in **(2006) 8 SCC 671 (Kendriya Vidyalaya Sangathan & Ors. vs. Sajal kumar Roy & Ors.)** and **(2011) 12 SCC 85 (Bedanga Talukdar vs. Saifudaullah Khan & Ors.)**. There are few exceptions wherein the Courts have released the age limit but they are under certain facts and circumstances. Although there cannot be a straight jacket formula which can be curled out from the decisions of the Hon'ble Supreme Court and various other High Courts while extending the age limit but one of the grounds is that where the recruitment process has not taken place for a considerable period of time although there were existing vacancies or in view of any statutory provision or judicial pronouncement required to hold the regular examination on regular basis for filling up the vacancies but the same was not done. The other exception which can be noticed is the previous selection process where a candidate was eligible and had participated but the same prior to completion got cancelled without reasons attributable to the candidate

concerned. Even, in these cases one may refer to the judgment reported in **2022(4) SCC 643 (High Court of Delhi vs. Devina Sharma)** where the Hon'ble Supreme Court or the High Courts have granted age relaxation as a onetime option without creating any precedence.

In the instant case, the records do not reveal that no selection process for direct recruitment of engaging *ASHA Karmee* in the particular Block or the District did not take place for over the years though vacancies existed and there was a mandate on the agency who was to conduct the selection process on a regular basis adhering to a time frame. On the contrary, the records reveal that the petitioner had participated in the selection process held in 2009, however, her candidature got cancelled despite being selected for being unable to meet other criteria than the age.

The petitioner has agitated these points in at least two earlier rounds of litigations. An appeal was also preferred against the order passed in an earlier writ petition. Looking from this angle, this writ petition being in the nature of successive writ petitions filed by the petitioner for achieving a particular goal is an abuse of process of law. It is also settled position of law

that the Court should not direct representations to be considered where the claim has become stale to revive the same.

The petitioner has surpassed the maximum age of 40 years under the subject advertisement at least 11 years back and had availed due opportunity to participate in previous recruitment process. The petitioner, therefore, does not deserve her representation to be considered even.

The writ petition is without any merit and an abuse of process of Court. The writ petition is, accordingly, **dismissed.**

The parties are directed to act upon the server copy of this order duly downloaded from the official website of this High Court without insisting upon production of a certified copy thereof.

(Arindam Mukherjee, J.)