



IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE DEEPAK KHOT

ON THE 4th OF DECEMBER, 2025

WRIT PETITION No. 5390 of 2024

SMT. PRITAM KAUR

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Akash Choudhury - Advocate with Shri Naveen Vaswani - Advocate for the petitioner.

Shri Vinod Mishra - P.L. for the respondent/State.

Shri Rahul Diwaker - Advocate with Shri Shubham Rai - Advocate for the respondent No.3.

None for the respondent no.5 despite service.
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ORDER

The petitioner has filed the present petition seeking the following reliefs :-

- i) Summon the entire material record from the possession of the respondents, for its kind perusal.
- ii) Upon holding the result of the respondent No.5 bad and law, set aside the same, only to the extent that it mentions 'merit 1' in the merit/ waiting column and further issue a writ in the nature of mandamus commanding respondent authorities to issue appointment to the petitioner on the post of Netra Sahayak after following due procedure, with all the consequential benefits arising thereto.
- iii) Upon holding letter dated 15.2.2024 (Annexure P1) as bad in law, quash and set aside the same.
- iv) Issue a writ in the nature of Quo warranto for quashing the appointment of the private respondents in the interest of justice.
- v) Any other order/orders, direction/directions may also be passed.
- vi) Cost of the petition may also kindly be awarded.

2. It is the case of the petitioner that an advertisement was issued for three posts of Eye Assistant (Ministerial) for Combined Examination



Recruitment Test 2023, vide advertisement annexure P/2. It is further submitted that the petitioner being eligible applied for the said posts. Out of 3 posts, 2 posts were unreserved and one post was reserved for ST category. The petitioner has submitted the form, annexure P-3. The petitioner was given admit card vide annexure P-4. The petitioner had appeared in the examination. The result was declared on 12.2.2024. The petitioner had obtained 65.97 marks out of 100 whereas respondent No.5 had obtained 62.88 marks. Copy of the merit list has been filed as annexure P-5. It has submitted that in the mark sheet of the respondent No.5, there is a clause which is mentioned for merit in which against the name of respondent No.5, merit 1 is written, while in the case of the petitioner, despite of getting more marks, no merit is written. On the basis of said result the respondent No.5 after due verification of documents has been selected vide annexure P-1. The petitioner has submitted the representation being aggrieved by such arbitrary action of the authorities, but of no avail.

3. It is contended by learned counsel for the petitioner that as per clause 9.3 of the advertisement, annexure P-2, the age relaxation has been given to the female candidates according to which they are eligible to file application form till 45 years of age. However, for the Open category it is confined to 18-40 years, which is also reproduced in clause 2 of the table mentioned in clause 9.4. The petitioner has submitted her application for Post Code 14. In the advertisement Form, 2 unreserved posts (1 post was shown to be vacant for unreserved category open, One for Open contractual) and 1 for ST category. It is the case of the petitioner that the petitioner, despite of



getting higher marks, was not selected and the respondent No.5 who got less marks has been selected for appointment on the said post. It is further submitted that in the reply of the State, though some exceptions have been carved out which are discriminatory in nature because no such exception for a woman candidate can be carved out stating that she does not fall in Open unreserved category.

4. In response, it is submitted that the stand of the respondent State is misconceived as there cannot be any such gender discrimination because in clause 9.3 there is provision of age concession/relaxation and not a reservation, which has been given to a woman candidate. Therefore, she cannot be ousted from the competition only because she is above 40 years and she does not fall within 18-40 years of age for the open test as provided in clause 9.4 and on the basis prayed for quashment of annexure P-1 and issuance of appointment order in favour of the petitioner.

5. Per Contra, learned counsel for the State and ESB have submitted that the respondent No.5 has rightly been selected and thereafter appointed because the advertisement contains 1 post for unreserved category. The unreserved category is mentioned in clause 9.4, for which the age limit is prescribed as 18-40 years. The petitioner being above 40 years found to be not eligible and, therefore, her merit has not been declared in the mark sheet/result and she has not been selected for the said post. It is further submitted that no post of woman candidate has been reserved to claim the age relaxation of 45 years. It is submitted that if there had been a vacancy for woman candidate, the petitioner could have been selected applying the age



relaxation of 45 years and, accordingly, submitted that the decision taken by the authorities is absolutely in accordance with the rules of recruitment/advertisement and prayed for dismissal of the petition.

6. Heard learned counsel for the parties and perused the record.

7. The only controversy which is cropped up in the petition is whether the petitioner being above 40 years is eligible for selection against the unreserved open category.

8. According to clause 9.3 of the Rules, which are part of the advertisement, annexure P-2, the age limit which is prescribed for the open test for direct recruitment is 18-40 years. However, for ST/ SC/ OBC, Govt. servants working in Departments/Corporation/Boards/Commission/self-governing body/Home Guard and Women candidates, maximum age limit is 45 years. Similarly, clause 9.4 provides a table in which two categories have been mentioned, one is for open test direct recruitment having 18-40 years of age and second for SC/ ST/ OBC/ Govt. servants working in Departments/Corporation/Boards/Commission/self-governing body/Home Guard, Handicapped and Women candidates having 18-45 years of age by granting relaxation of 5 years to second category candidates. The interpretation which has been submitted by counsel for the State is that in the Post Code 14, there are 2 posts of unreserved category, 1 open, 1 open for contractual and one is for ST category have been advertised. It is submitted that in unreserved category, 1 post is advertised for the open category, but not for the woman candidate, therefore, even if the applicant is a woman, then she has to come within the prescribed age limit of 18-40 years and for



which no age relaxation is provided in the advertisement/rules. But, from bare perusal of the table of Post Code 14, it is found that in the unreserved category only 1 open post has been advertised and nothing is mentioned against women category. It means any person including women candidate is eligible to compete in the open category. Clause 9.4 table provides age relaxation to certain candidates including woman candidate. If such relaxation is applied to the petitioner, the petitioner would also be eligible for (open) unreserved category. It is also found from the table that there is no reservation or category which has been carved out within the Open category for woman, therefore, woman can also participate in the examination for the post which is kept under open category. The rules do not provide that the relaxation of age if granted to woman candidates, they will not be allowed to compete in open category.

9. From the table of post of Post Code 14 appended to Rule 9.5, it is clear that the post in open sub category has been made in the unreserved category, meaning thereby that in an unreserved category if the post is advertised as open, then anybody can apply in the open category. It is trite law that candidate applied under reservation vertically or horizontally can compete with the unreserved open category if such candidate obtains more marks than the cut off marks fixed for the unreserved open category. Woman candidates are the horizontal reserved category carved out in the vertical horizontal system, but when woman is competing in an open category then if the woman candidate is getting higher marks then any of the reservation would not be applicable to that woman candidate and that she



will be treated to be at par with the open unreserved category candidate.

10. In the present case in hand, the petitioner has though obtained higher marks than the respondent no.5, but because she is above 40 years of age, she has not been treated to be in the open category. Such restriction is not permissible under the law because the open unreserved category is open to all, particularly when a woman candidate who has been granted relaxation to participate in the examination then she cannot be discriminated because she is not coming within the age limit prescribed for the open category candidate, i.e. 18 to 40. The petitioner being above 40 but below 45 and coming within the relaxation limit as provided in clause 9.3, the petitioner deserves to be considered in the open unreserved category candidate.

11. The Hon'ble Apex court in the case of Richa Mishra v. State of Chhattisgarh, (2016) 4 SCC 179 has held as under :-

"25. Women in this world, and particularly in India, face various kinds of gender disabilities and discriminations. It is notwithstanding the fact that under the Constitution of India, women enjoy a unique status of equality with men. In reality, however, they have yet to go a long way to achieve this constitutional status. It is now realised that real empowerment would be achieved by women, which would lead to their well-being facilitating enjoyment of rights guaranteed to them, only if there is an economic empowerment of women as well. Till sometime back, the focus was to achieve better treatment for women and for this reason, the concentration was mainly on the well-being of women. Now the focus is shifted to economic empowerment. Such objectives have gradually evolved or broadened to include the active role of women when it comes to development as well. No longer the passive recipients of welfare-enhancing help, women are increasingly seen, by men as well as women as active agents of change : the dynamic promoters of social transformation that can alter the lives of both women and men.

26. It is now realised that there is a bidirectional relationship between economic development and women's empowerment defined as improving the ability of women to access the constituents of development, in particular health, education,



earning opportunities, rights, and political participation. This bidirectional relationship is explained by Prof. Amartya Sen by propounding a theory that in one direction, development alone can play a major role in driving down an equality between men and women; in another direction, continuing discrimination against women can hinder development. In this scenario, empowerment can accelerate development. From whichever direction the issue is looked into, it provides justification for giving economic empowerment to women. It is, for this purpose, there is much emphasis on women empowerment (as it leads to economic development) by the United Nations, World Bank and other such bodies.

27. Interestingly, the 2012 World Development Report (World Bank 2011) adopts a much more nuanced message. While it emphasises the “business case” for women empowerment, it mainly takes it as given that the equality between women and men is a desirable goal in itself, and policies should aim to achieve that goal. Poverty and lack of opportunity breed inequality between men and women, so that when economic development reduces poverty, the condition of women improves on two counts : first, when poverty is reduced, the condition of everyone, including women, improves, and second, gender inequality declines as poverty declines, so the condition of women improves more than that of men with development.

30. In order to gather the intention of the lawmaker, the principle of “purposive interpretation” is now widely applied. This has been explained in Shailesh Dhairyawan v. Mohan Balkrishna Lulla [Shailesh Dhairyawan v. Mohan Balkrishna Lulla, (2016) 3 SCC 619 : (2015) 11 Scale 684] in the following words : (SCC pp. 641-42, paras 31-33)

“31. The aforesaid two reasons given by me, in addition to the reasons already indicated in the judgment of my learned Brother, would clearly demonstrate that provisions of Section 15(2) of the Act require purposive interpretation so that the aforesaid objective/purpose of such a provision is achieved thereby. The principle of “purposive interpretation” or “purposive construction” is based on the understanding that the court is supposed to attach that meaning to the provisions which serve the “purpose” behind such a provision. The basic approach is to ascertain what is it designed to accomplish? To put it otherwise, by interpretative process the court is supposed to realise the goal that the legal text is designed to realise. As Aharon Barak puts it:

‘Purposive interpretation is based on three components : language, purpose, and discretion. Language shapes the range of semantic possibilities within which the interpreter acts as a linguist. Once the interpreter defines the range, he or she chooses the legal meaning of the text from among the (express or implied)



semantic possibilities. The semantic component thus sets the limits of interpretation by restricting the interpreter to a legal meaning that the text can bear in its (public or private) language.’ [Aharon Barak, Purposive Interpretation in Law (Princeton University Press, 2005).]

32. Of the aforesaid three components, namely, language, purpose and discretion “of the Court”, insofar as purposive component is concerned, this is the ratio juris, the purpose at the core of the text. This purpose is the values, goals, interests, policies and aims that the text is designed to actualise. It is the function that the text is designed to fulfil.

33. We may also emphasise that the statutory interpretation of a provision is never static but is always dynamic. Though literal rule of interpretation, till some time ago, was treated as the “golden rule”, it is now the doctrine of purposive interpretation which is predominant, particularly in those cases where literal interpretation may not serve the purpose or may lead to absurdity. If it brings about an end which is at variance with the purpose of statute, that cannot be countenanced. Not only legal process thinkers such as Hart and Sacks rejected intentionalism as a grand strategy for statutory interpretation, and in its place they offered purposivism, this principle is now widely applied by the courts not only in this country but in many other legal systems as well.”

(emphasis in original)

31. Even if any doubt arises about the applicability of the 1997 Rules because of absence of any specific provisions in the 2000 Rules, that is taken care of by State Services Examination Rules, 2003. It is not disputed by the respondents that competitive examination for recruitment to the post of DSP was conducted under the aforesaid Rules. As already noted above, Rule 5 of the said Rules deals with eligibility conditions. Apart from prescribing nationality, minimum educational qualification, etc., it specifically lays down provision relating to age of the candidates. After prescribing minimum and maximum age-limits as eligibility condition for appearing in the examinations, proviso to this provision of age empowers the State Government to vary the lower and upper age-limits for any of the services included in these Rules looking to the exigencies of services. This Rule also makes provision for relaxation in the upper age-limit in certain cases. What is relevant for us is that for women candidates, a provision is specifically made providing that as per the 1997



Rules, 10 years' age relaxation would be given to women candidates, as is clear from the said provision which reads as under:

“(xiv) Up to maximum 10 years : for women candidate : As per Rajpatra (Asadharan) dated 7-2-1997, published rules Chhattisgarh Civil Service (Special Provision for Appointment of Women) Rules, 1997, 10 years' age relaxation will be given to women candidates.”

32. It can, therefore, be clearly inferred that by incorporation in the manner aforesaid, the 1997 Rules were made applicable for the examination in question and in this way the lacuna in the 2000 Rules also got filled up. It would not be too much presumptuous to say that omission of the 1997 Rules in Rule 8 of the 2000 Rules was merely accidental and it was not a case of casus omissus. Because of this reason, said omission was also rectified while enacting the 2005 Rules, by making a specific provision in Rule 8(f) of the 2005 Rules. Therefore, the intention of the rule-making authorities had always been to give benefit of relaxation in age to women candidates. After all, we are called upon to interpret subordinate legislation, salutary aim whereof is to achieve social purpose and consequently social justice.

38. In my considered opinion also, the appellant is entitled to claim age relaxation as provided to women candidates in Rule 4 of the 1997 Rules read with the proviso to clause (xiv) of Rule 5 of the State Services Examination Rules, which has application to the case of the appellant while considering her case for the post of Deputy Superintendent of Police. I, however, need not elaborate my conclusion since I entirely agree with the reasoning of my learned Brother on this issue.

39. I also concur with the subtle observations made by my learned Brother in paras 24 to 28 where his Lordship has observed that the very object of promulgating the 1997 Rules and especially Rule 4 is to encourage women's participation in various State services. In my view, denial of such benefit to a woman candidate while considering her case for the post in State services would make the Rule wholly nugatory. Such can never be the intention of the legislature being against the spirit of Articles 15 and 16 of the Constitution of India.”



12. From the above enunciation of law and aforesaid analysis of facts, it is clear that the petitioner being a woman candidate got higher marks than the cut off marks and higher marks than the respondent no.5, should have been given merit position than the respondent no.5 by extending the relaxation as per clause 9.3. Grant of relaxation itself does not discriminate the woman candidate from competing in the open category because petitioner is meritorious and got more marks. It is not the case that the petitioner has secured lesser marks than respondent no.5. Thus, on the basis, the petitioner cannot be discriminated for the age, which has been relaxed by clause 9.3 and she should be considered for appointment.

13. Thus, on the basis of aforesaid analysis of facts and law the petition of the petitioner is **allowed**. The impugned order annexure P/1 dated 15.2.2024 is **quashed**. The respondents are directed to consider the case of the petitioner for appointment on the basis of her merit and marks.

14. With the aforesaid, the petition is disposed of.

(DEEPAK KHOT)
JUDGE

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