

**HIGH COURT OF MADHYA PRADESH AT JABALPUR**

Writ Petition No : 16541 OF 2010(s)

Subhash Kumar Dwivedi

- V/s -

State of Madhya Pradesh and others

**Present :**                      **Hon'ble Shri Justice Rajendra Menon.**

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Shri Vipin Yadav, learned counsel for the petitioner.

Shri K.S.Wadhwa, learned counsel for Respondent No.1.

Shri Rajesh Tiwari, learned GA for Respondent No.2.

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**ORDER**

**(25/11/2010)**

- 1-      Petitioner is working as a Assistant Professor. He is 36 years of age and feels aggrieved by non-grant of age relaxation in the forthcoming State Civil Service Examination to be conducted for the year 2010-11.
- 2-      It is an admitted position that the petitioner is over age and as per the criteria laid down in the advertisement Annexure-P3 dated 23.2.2008 and the rules framed for the examination, is not eligible to appear in the examination.
- 3-      Grievance of the petitioner is that the State Cabinet had taken a decision for granting age relaxation to the extent of three years vide circular Annexure-P3 dated 23.2.2008. The aforesaid age relaxation was granted for the examination to be held in the year 2008-09 and again in the year 2009-10 because the examinations to be conducted every year

was not conducted and between the year 2001 to 2008, only two examinations were conducted i.e. in the year 2005 and 2007. Accordingly, the decision was taken by the State Cabinet but now in this examination i.e. for the year 2010-11, it is stated that this decision is not being followed and persons like the petitioner are not being granted age relaxation.

4- Shri Vipin Yadav, learned counsel for the petitioner taking me through the documents filed argued that when examination was not held every year for various period between 2001 to 2008 and when examination was held only on two occasions in the year 2005 and 2007 and when the cabinet denied to give age relaxation due to non-conduct of the examinations, the decision of the respondents in not granting age relaxation to the petitioner now is wholly illegal, arbitrary and unsustainable as the Cabinet decision as contained in Annexure-P3 for the year 2010-11 is not being followed.

5- Shri K.S.Wadhwa, learned counsel for Public Service Commission and Shri Rajesh Tiwari, learned counsel for the State argues that the question as to whether the age relaxation should be granted or not and the period and the extent of which the age relaxation is to be granted is a policy decision to be taken by the State Government on evaluating the totality of the circumstances, the State Cabinet approved for grant of age relaxation to the extent of three years for the examinations to be held in the year 2008-09 and 2009-10. For the current year, no such decision is taken and, therefore, it is stated that no benefit can be extended to the petitioner. It is submitted by Shri K.S.Wadhwa that the policy decision of the State Government cannot be subject matter of judicial review in a petition under Article 226 of the Constitution in the absence of statutory

rules or regulations being violated or constitutional right of the petitioner infringed. Accordingly, learned counsels for the respondents pray for dismissal of this writ petition.

6- I have heard learned counsel for the parties and perused the record. It is well settled principle of law that laying down criteria for selection to State Service is a prerogative of the State Government. It is an executive function to be discharged by the executive authorities keeping in view the requirements of the administration and various other factors. A Court exercising jurisdiction in a petition under Article 226 of the Constitution interferes with, in such matter only if constitutional provisions are found to be breached, rights statutory in nature taken away or action impugned is found to be in contravention to statutory rules or regulations.

7- In the present case, considering the totality of the circumstances, the State Government took a decision to grant age relaxation for the examinations to be held in the year 2008-09 and again in the year 2009-10 after having granted age relaxation for two years on the ground of non-conduct of examinations prior to 2007, the State Government found that it is inappropriate to grant any further age relaxation in the examination to be held in the current session 2010-11. This decision of the State Government cannot be interfered with by this Court until and unless, the statutory rules or regulations or any constitutional provisions are shown to be violated. Merely because the decision of the State Government causes hardship to the petitioner or it acts against his interest, that by itself is not a ground for interference by this Court. The State Government having fixed the criteria of age in accordance with requirement of the service, this Court does not find any ground to interfere in the matter only because the age relaxation that was granted in



the previous two examinations is not continued now in the current examination.

8- Its a matter completely within the domain and jurisdiction of the administrative authority and this Court, in the absence of constitutional and statutory provision being breached, does not find any ground to interfere in the matter.

9- Accordingly, finding no case made out for interference on the grounds raised, the writ petition is dismissed.

( RAJENDRA MENON )  
J U D G E

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