

(2025) 07 MAN CK 0522
In the Manipur High Court
Case No : Writ Petition (C) No. 568 Of 2009

Laimayum Sanatombi Devi

APPELLANT

Vs

Indira Gandhi National Open University Through Its Director,
Maidan Garhi, New Delhi, 110068 & Ors.

RESPONDENT

Date of Decision : 02-07-2025

Acts Referred:

Constitution Of India, 1950 — Article 14, 16

Citation : (2025) 07 MAN CK 0522

Hon'ble Judges : A. Guneshwar Sharma, J

Bench : Single Bench

Advocate : H. Malemleima, N. Bipin, A. Arunkumar, Wungpam Lungmi

Final Decision : Disposed Of

Judgement

A. Guneshwar Sharma, J

(CAV)

[1] Heard Ms. H. Malemleima, learned counsel along with Mr. N. Bipin, learned counsel and Mr. A. Arunkumar, learned counsel for the petitioner and Mr. Wungpam Lungmi, learned counsel for the respondents.

[2] The petitioner herein is aggrieved by letter dated 15.06.2009 issued by Assistant Registrar (Rectt.), Indira Gandhi National Open University (IGNOU) Maidan Garhi, New Delhi to the Regional Director, IGNOU Regional Centre, Asha Jina Complex, North AOC, Imphal, thereby rejecting the request of the petitioner for relaxation of age for appointment to the post of JAT (Junior Assistant cum Typist).

The brief facts of the present petition is as follows:

[3] Vide order dated 05.09.1990, the petitioner was appointed as part time Assistant at IGNOU, Imphal Study Centre with the conditions that her assignment will be effective from 01.08.1990 for a term of one year and

allowance @ Rs. 400/- per month and she would not claim any request for regularization.

[4] Vide order dated 20.02.1996, her term of appointment was extended up to 31.12.1996 at the remuneration of Rs. 500/-.

[5] Vide another order dated 20.12.2000, the petitioner was appointed as attendant on contract basis at IGNOU, Regional Centre Imphal on a consolidated salary of Rs. 3,596/- per month for a period of 6 months w.e.f. 21.12.2000 (FN). Similarly, vide office orders dated 21.06.2001 and 01.07.2001, her contractual appointment as attendant was extended from time to time.

[6] Thereafter, vide engagement letters dated 08.01.2008 and 09.07.2009, the petitioner was appointed as JAT on contractual basis initially for a period of 6 months with consolidated salary of Rs. 6,000/-per month with the conditions that she would not claim for permanency.

[7] Thereafter, IGNOU, Regional Centre, Imphal issued an advertisement dated 10.01.2007 for recruitment of various posts including 2(two) posts of Junior Assistant cum Typist (JAT) (01 reserved for SC) in the pay scale of Rs. 3050-4590 and the essential qualification for the said post is 'Matriculation or equivalent with two years' experience in Clerical post in a Govt./ Semi-govt./ Public under-taking/ Reputed private company with typing speed of 30 w.p.m. in English. The typing speed in respect of any of the National Language will be as prescribed by the Central Govt./ State Govt. and a Bachelor's degree from a recognized University with typing speed of 30 w.p.m. is desirable with age limit as 27 years. The petitioner applied for the post of JAT

[8] Vide letter dated 21.02.2008 issued by the Dy. Registrar (Estt.), IGNOU Maidan Garhi, New Delhi to the Regional Director, IGNOU Regional Centre Imphal informed that the petitioner was selected for the post of JAT and requested for post-based reservation roster for Direct Recruitment/ Local Recruitment followed by the State Govt. of Manipur be called for. Accordingly, the Regional Director, IGNOU Regional Centre Imphal sent a letter dated 25.02.2008 to the Dy. Registrar (Admn.), IGNOU New Delhi submitting the requisite documents with respect to the petitioner who was selected for the post of JAT in IGNOU, Regional Centre Imphal.

[9] Vide letter dated 09.06.2008 issued by the Dy. Director, IGNOU New Delhi to the Regional Director, Regional Centre Imphal informed that the petitioner was overaged for the post of JAT and she was 45 years old at the time of submission of her application form. The maximum age as per advertisement is 27 years, 3 years relaxation for OBC and 6 years for working in IGNOU Regional Centre and the maximum age in the case of the petitioner would be 37 years (27 years as per advt.+ 3 years for OBC + 6 years for working in Regional Centre).

[10] The Regional Director, IGNOU Imphal Regional Centre sent a letter dated 04.07.2008 to the Dy. Director, EDNERU, IGNOU New Delhi stating that the

petitioner was nearly 45 years (i.e. 44 years 9 months 11 days) at the time of submission of her application form but she joined IGNOU in the year 1990 and her total service at the Regional Centre will be 16 years. The maximum age relaxable will be 46 years and she will be eligible & qualified for the post of JAT and she may be given chance of service in IGNOU.

[11] Vide another letter dated 26.02.2009 issued by the Registrar (Admn.), IGNOU New Delhi to the Regional Director, IGNOU Regional Centre Imphal stating that the maximum permissible age limit for the petitioner was 36 years (i.e. 27+3+6). Hence, she was overaged and found not eligible for regular appointment as per the University rules.

[12] The Regional Director, IGNOU RC Imphal sent a letter dated 25.03.2009 to the Registrar (Admn.), IGNOU New Delhi stating that the maximum age eligible for the petitioner is 45.5 years (i.e. the maximum age as per advertisement is 27 years, 3 years relaxation for OBC, 6 years for service in Regional Centre and 9 years 5 months for service in Imphal Study Centre) and requested to consider her case in light of the said explanations and issue orders.

[13] Vide impugned letter dated 15.06.2009 issued by Assistant Registrar (Rectt.), IGNOU New Delhi to the Regional Director, IGNOU RC Imphal informed that the request for relaxation of age with respect to the petitioner could not be acceded and she was not found eligible for appointment to the post of JAT.

[14] It may be noted that IGNOU New Delhi issued an advertisement no. 41/2009 for recruitment of various posts for the IGNOU Headquarters and Regional Centre across the country including the post of Junior Assistant cum Typist (Group-C). The detailed of the 64 posts of JAT in that advertisement is reproduced herein below:

Name of post

Post

Code

Educational & Professional

Qualification

Junior Assistant Cum- Typist (Group-C)

05

Essential

Matriculation OR its equivalent with two years experience in a clerical post in a Govt./Semi Govt./Public undertaking/ Reputed private company with a typing speed of 40 w.p.m. in English OR 35 w.p.m. in Hindi on computers.

Desirable

A Bachelor's Degree from a recognized University with typing speed of 40 w.p.m. in English OR 35 w.p.m. in Hindi on computers.

Age Relaxation

The applicant should not exceed age limit above, as on the fast date of receipt of application. However, this age is relaxable as per Govt. of India standing instructions for the following categories.

i)

For SC/ST candidates

5 years

ii)

OBC candidates

3 years

iii)

Departmental candidates with 3 years of continuous service

Upto 42 years of age

(in case of SC/ST candidates upto 47 years of age) (For appointments of Group-C posts)

v)

Physically Handicapped

10 years (15 years for SC/ST candidates and 13 years for OBC)

v)

Ex-serviceman

Service rendered in Army/Navy/Air Force plus 3 years

vi)

Government employees including Departmental candidate for Group-A post

5 Years

vii)

Central Government Civilian employees for Group 'C' Posts (those who have rendered not less than 3 years continuous service on regular basis)

40 Years (45 years for SC/ST and 43 years for OBC)

viii)

For Resident of J&K during the 01.01.1980 to 31.12.2989

5 Years

[15] It is the case of the petitioner that she has worked in IGNOU for 17 years and relaxation given by IGNOU Headquarter, New Delhi for only 6 years is without any basis and the impugned order dated 15.06.2009 rejecting her request for relaxation of age is liable to be set aside only on this ground.

[16] It is prayed that the communication letter dated 15.06.2009 containing that the petitioner was not eligible for age relaxation and not found eligible for appointed to the post of JAT be set aside and for declaring from the period 05.09.1990 to 20.12.2002 be computed as for the purpose of age relaxation.

[17] The respondent filed counter affidavit inter-alia stating that IGNOU Regional Centre Imphal issued an advertisement dated 10.01.2007 for various posts including the post of JAT. The qualification for the said post was Matriculation or equivalent with two years' experience in clerical post in a Govt./ Semi Govt./ Public Undertaking/ Reputed private company with typing speed of 30 w.p.m. in English and Graduate is desirable. Out of 2 posts of JAT, one post has reserved for SC and one for UR and the last date of receipt of application form was on 30.01.2007.

[18] Since, the application for one, Shri Haobijam Biswarjit Meitei of SC seat was rejected on the ground of non-production of work experience/No Objection Certificate from the Employer and the seat was treated as General.

[19] The petitioner applied for the post of JAT with Form No. 074078 against the UR seat as an OBC candidate and having more than 16 years' experience (10 years in IGNOU Study Centre, Imphal and more than 6 years in Regional Centre, Imphal). As per record, she was qualified in the skill test and short listed for the post of JAT at IGNOU RC, Imphal. The petitioner was 45 years at the time of submission of application form under OBC category and as per the decision of 89th meeting of the Board of Management (BOM) held on 26.02.2007 aged relaxation at Regional Centre was approved that age relaxation was not extended for Study Centres and it should be confined to working in the Regional Centres only. Accordingly, the petitioner was eligible only for 6 years relaxation of age and in total 36 years and as such, she was age bar for the post of JAT.

[20] The petitioner filed rejoinder affidavit stating that the decision of the 89th meeting of BOM held on 26.02.2007 has no statutory force and not allowing age relaxation for the service in Study Centres and the same is in violation of Articles 14 and 16 of the Constitution of India.

[21] Initially at Imphal, there was no Regional Centre and the petitioner served in IGNOU Study Centre and this bifurcation of staff of Regional Centre and Study Centre is irrational and illegal.

[22] Since, the age certificate for the petitioner is not on record, vide order

dated 08.10.2024, this Court permitted the petitioner to file additional documents bringing on record showing her date of birth and the respondents was also permitted to file recruitment rules prevailing in the year 2007 on record.

[23] Pursuant to this direction, the petitioner filed additional affidavit dated 27.03.2025 bringing on record the matriculation certificate which shows the date of birth of petitioner as 01.02.1962 and the same is taken on record. However, the respondents have not filed recruitment rules prevailing in the year 2007.

[24] However, during the course of hearing, the respondents produce a copy of the IGNOU, Recruitment and Promotion Rules, 2010 and the same is taken on record.

[25] Vide order dated 14.12.2009, this Court directed the respondents to keep 1(one) post of JAT vacant subject to the final outcome of this writ petition and should not be filled up till disposal of this writ petition and the same is reproduced herein below:

"14.12.2009

Heard Mr. H.S. Paonam, learned counsel appearing for the petitioner and Mr. N. Ibotombi, learned counsel appearing for the respondent No. 4.

With regards to the interim prayer, I have heard the learned counsel and perused the Advertisement No. 41/2009 which is annexed as Annexure-A/12 to the writ petition. The prayer of the petitioner is to keep one post vacant in the category of Jr. Assistant-cum-Typist from the said Annexure-A/12. It is indicated that there are 219 vacancies. Considering this number of vacancies in the said post it would serve the ends of justice if the respondents are directed not to fill up one post of Jr. assistant-Cum-Typist subject to the final outcome of this writ petition. The respondents are hereby directed that one post Jr. Assistant-cum-Typist shall not be filled up till disposal of this writ petition."

[26] The learned counsel for the petitioner submits that the respondents have wrongly rejected tenure of service rendered by the petitioner in IGNOU Study Centre Imphal and have taken into consideration only 6 years tenure served by her in Imphal Regional Centre. As per counter affidavit filed by the petitioner the same was in terms of the decision of the 89th meeting of BOM held on 26.02.2007 where age relaxation can be claimed for service in IGNOU Regional Centre Imphal.

[27] The learned counsel for the petitioner submits that if that be the case, the application of the petitioner should have been rejected at the very threshold without compelling her to appear in the test and once shortlisted for selection, she cannot be rejected on the ground of non-applicable of tenure of her service in the IGNOU, Study Centre Imphal. The same would be barred by the principle of estoppel and acquiesces.

[28] It may be noted that earlier IGNOU Regional Centre was stationed at

Shillong only and IGNOU Imphal was only as Study Centre. Later on, IGNOU Regional Centre was established.

[29] Ms. H. Malemleima, learned counsel for the petitioner submits that the discrimination of staff serving in the Study Centre and Regional Centre is irrational, arbitrary and without any substances. The employee at the Regional Centre as well as Study Centre are working for the IGNOU. This classification lacks intelligible differentia as held by the Hon'ble Supreme Court in many cases such as *State of West Bengal v. Anwar Ali Sarkar*: AIR 1952 SC 75 & *Binoy Viswan v. Union of India*: (2017) 7 SCC 59.

[30] The learned counsel for the petitioner submits that as per the matriculation certificate the date of birth of the petitioner is 01.02.1962 and the last date of submission of application form is on 30.01.2007. The age of the petitioner was 44 years 11 months and 29 days on the last date of submission of form. The permissible maximum age for the petitioner with applicable relaxation will be 46 years [i.e. 27 years as per advertisement + 3 years for OBC + 16 years for working in IGNOU (10 years as Study Centre as well as 6 years as Regional Centre)].

[31] It is submitted that the candidature and appointment of the petitioner to the post of JAT was wrongly rejected by the respondents by impugned letter dated 15.06.2009 by considering the period of 6 years only working in Regional Centre for the purpose of age relaxation. Since one post of the JAT was kept unfulfilled vide order dated 14.12.2009 passed by this Court, the respondents be directed to appoint the petitioner against this post.

[32] However, the learned counsel for the petitioner fairly consists that the petitioner has now attained the age of superannuation. It is informed that she is still being utilized in the IGNOU Regional Centre Imphal and this Court may mould the relief by directing the respondents to consider her for pensionary benefit with arrear of the pay and allowance.

[33] On the other hand, the learned counsel for the respondents submits that as per the decision of the 89th meeting of BOM dated 26.02.2007, the relaxation of age for working only in Regional Centre is applicable and there cannot be no relaxation in age for period working in the Study Centre. Since, the petitioner has worked only 6 years in Regional Centre and the maximum eligible age of her will be 36 years (i.e. 27 years as per advertisement + 3 years for OBC + 6 years for working in IGNOU). Since she was almost 45 years on the date of submission of the application form, hence her candidature cannot be considered as exceeding the maximum age as prescribed for the category as per rules.

[34] It is submitted that her candidature was lightly rejected by the respondents-authority and the learned counsel for the respondents relies on the following judgement:

i) 1993 Supp. (2) SCC 600 Para 7

(Jai Singh Dalal and Ors. –vs- State of Haryana and Anr.) - Recruitment can be stop at any time before appointment and the candidates has not vested right of appointments.

ii) AIR 1991 SCC 1612 Para 7

(Shankarsan Dash –vs- Union of India) - All vacancies are not required to be filled up.

It is prayed that the writ petition may be rejected at this stage.

[35] This Court has considered the materials on record, submissions made at the bar and decisions cited by the learned counsel for the parties.

[36] It is admitted fact that the date of birth of the petitioner is 01.02.1962 and the age has to be calculated as on the last date of submission of application form is 30.01.2007. The petitioner was 44 years 11 months and 29 days as on the last date of submission of form. The maximum age permissible as per the advertisement dated 10.01.2007 is 27 years for the post of JAT.

[37] It is also an admitted fact that the petitioner worked in IGNOU, Study Centre Imphal for 10 years and for another 6 years in IGNOU Regional Centre Imphal. In other words, at the time of the submission of the application form, the petitioner has been working in the IGNOU for more than 16 years from the date of initial appointment i.e. 05.09.1990 till last date of application form submission i.e., 30.01.2007 [10 years in IGNOU Study Centre and 6 years in IGNOU Regional Centre Imphal]. She claimed a total relaxation of age up to 46 years, i.e., 27 years as per advertisement, 3 years for OBC, 16 years for working in IGNOU and the maximum age relaxable would be 46 years in her case.

[38] It is also admitted fact that her application was accepted and she appeared in the test for the post of JAT and she was declared as selected for appointment.

[39] However, during the verification of the age relaxation in IGNOU Headquarter, New Delhi, it was stated that only 6 years would be relaxable to the petitioner for working in the IGNOU Regional Centre alone, thereby the maximum age relaxation is 36 years. Since her age was 45 years on the last date of submission of application form and her candidature was rejected by the impugned communication letter dated 15.06.2009 issued by IGNOU Headquarter, New Delhi.

[40] The admissibility of 6 years age relaxation is as per the decision of the 89th meeting of BOM held on 26.02.2007 whereby, it was resolved and approved to relax age only for the period working in the Regional Centre.

[41] This Court has minutely perused the materials on record, especially the decision of the 89th meeting of BOM held on 26.02.2007 whereby, relaxation is applicable only for the period working in Regional Centre.

[42] It will be relevant to reproduced the proceeding of the 89th meeting of

Board with respect to the age relaxation for the Regional Centre is reproduced as below:

"ITEM NO. 5 TO CONSIDER AND APPROVE THE MATTER OF AGE RELAXATION RELATING TO THE RECRUITMENT OF STAFF IN GROUP B, C AND D IN THE REGIONAL CENTRES AT NORTH-EAST REGION, SIKKIM, JAMMU AND KASHMIR

BM 89.5.1 The item was taken up for consideration. The Secretary informed the Board that at its 83rd Meeting, the Board approved the recommendations of the Establishment Committee made at its 42nd Meeting held on 11-07-2005 relating to the local/regional recruitment to the vacant positions under Group B, C and D categories at the Regional Centres in the North- East, Sikkim, Jammu and Kashmir. Pursuant to the above decision, further steps were initiated in the matter and necessary guidelines were issued to the concerned Regional Directors. This was followed up further and the Regional Directors issued advertisements in the local Press. The Regional Centres have been engaging persons on daily wage basis on contract for some years to man the day to day activities at Regional Centres. In response to the advertisements issued by the Regional Centre, Jammu, the staff working as Regional Centre on contract/daily wage basis sent their representation on 15-01-2007 to the Vice-Chancellor stating that they have been working in the Regional Centre for last 5 to 8 years in that capacity and have requested for their regularization which as per the Recruitment Rules is not permissible. Similar position also prevails in the Regional Centres in North-East Region, Sikkim and Kashmir. Keeping the above situation in view and the fact that the staff at these Regional Centres have served the University for long periods and have gained experience, it was proposed that the contractual staff working at these Regional Centres, who fulfill the eligibility criteria, may be given the opportunity to apply and compete along with outside candidates providing them age relaxation to the extent of their service at these Regional Centres provided that each spell of such service is more than six months.

BM 89.5.2 The Board considered and approved the proposal."

[43] On the minute examination of the proceedings of the BOM with respect to the relaxation of age, it is seen that the decision was related to the relaxation of age for Group- B, C and D employees working in the Regional Centre. Since the agenda was regarding the relaxation of age for employees working in the Regional Centre, and the decision was obviously confined to for that purpose only.

[44] It will be preposterous to conclude that the 89th meeting of the Board, IGNOU has rejected the claim for relaxation of age for the contract staff working in the Regional Centre. This Court is of the view that if agenda includes relaxation of the age for the contract employees in Study Centre, the same decision as in the case of the contract employees in Regional Centre would have been arrived in the Board meeting.

[45] It is settled proposition of law that there can be reasonable classification of

unequals into equals under Article 14 of the Constitution of India. However, the classification should have an intelligible differentia and classification should be in consonance with the object to be achieved. Kindly see Anwar Ali (supra) and Binoy Viswam (supra) in this regard to mention a few.

[46] In the present case, the object is to give relaxation to the employee working in the IGNOU for applying in regular appointment in the Institute. The relaxation is not intended to confine to the contract employees working in the Regional Centres only. The respondent has miserably failed to explain the act of differentiating between contract employees working in the Regional Centre and the Study Centre for the applicability of the age relaxation. On the other hand, the 89th meeting of BOM held on 26.02.2007 did not at all consider the case for age relaxation of age for the contract employees working in the Study Centre. It will be wrong to conclude in absence of anything specific in this regard that the BOM has rejected the case of contract employees working in the Study Centre.

[47] This Court is of the firm opinion that the rejection for the period of working by a contract employee of the IGNOU working in the Study Centre for the purpose of age relaxation, is without any logic and the same is not in consonance with the object of giving relaxation to the contractual employees of the IGNOU. The logic of denying the benefit of age relaxation to the contract staff working in the Study Centre is devoid of any merit and impermissible; and the same amounts to treating equals unequally without any intelligible classification.

[48] Accordingly, the impugned communication/letter dated 15.06.2009 is held to be in violation of the principle of equality enshrined in the Article 14 of the Constitution and the same is set aside and the petitioner is to be appointed notionally as JAT wef 15.06.2009 (the day her candidature was rejected by the impugned communication dated 15.06.2009) against 1(one) seat kept reserved, vide order dated 14.12.2009 passed by this Court.

[49] However, during the pendency of the present writ petition and for no fault of her, the petitioner has already attained the age of superannuation as her date of birth in matriculation certificate is 01.02.1962.

[50] In a recent judgment of J. Ganapatha and Ors. vs. N.Selvarajalou Chetty Trust and Ors.: MANU/SC/0387/2025: 2025 INSC 395, Hon'ble Supreme Court discussed the concept of moulding of relief as an exception in a proceeding based on the facts and circumstances of the case, even if the relief granted was not actually prayed for or the relief prayed for cannot be granted due to subsequent development. While applying the rule, utmost care ought to be taken so as not to cause injustice and prejudice to any party. In the circumstances, this Court has moulded the relief in the changed circumstances to do complete justice to the parties. This Court holds that the petitioner will be entitled the pensionary and other service benefits entitled as per rules without arrears of the pay and allowance. This direction has to be issued in the peculiar facts of this case.

[51] With these observations, this WP(C) No. 568 of 2009 is disposed of. Interim

orders, if any, stand merged with the final order.

[52] Before parting, this Court expresses its acknowledgement of the contributions and the hardworking of 2(two) young lawyers namely, Ms. H. Malemleima, learned counsel for the petitioner and Mr. Wungpam Lungmi, learned counsel appearing for the respondents in assisting the Court in disposing the present writ petition which has been pending for more than 16 years. Their hard work and research will continue in other cases and will be an inspiration to their colleagues in the profession.