

(2018) 09 CHH CK 0262
In the Chhattisgarh High Court
Case No : Writ Appeal No. 540 Of 2018

Vijay Kumar Tiwari

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision : 14-09-2018

Acts Referred:

Citation : (2018) 09 CHH CK 0262

Hon'ble Judges : Ajay Kumar Tripathi, CJ; Parth Prateem Sahu, J

Bench : Division Bench

Advocate : Ajay Shrivastava, UNS Deo

Final Decision : Dismissed

Judgement

Ajay Kumar Tripathi, CJ

1. Writ application was filed by the Appellant when his prayer for grant of age relaxation on ground of sterilisation/family planning in matter of

appointment on the post of Sub Engineer (Civil) in the Department of Rural Engineering Services, was rejected by the Respondent authorities on

14.03.2014, Annexure P/1 to the writ application. The said decision was challenged before the learned Single Judge, who in the totality of the

circumstances, did not find any merit in the writ, and therefore, dismissed the same.

2. The Court is not required to go into the factual details. There was an advertisement where the maximum age for recruitment was specified. The

Appellant was over age, but in terms of the policy of the State Government, he demanded and was looking forward to relaxation of age by two years

since his wife had undergone sterilisation.

3. The main limb of argument on behalf of the Appellant before the learned

Single Judge was that in similar circumstances, many a writ applications came to be allowed and benefit of extended age accrued to their advantage and therefore, there should be parity even in his case.

4. The learned Single Judge has taken note of the fact that even with the concession of two years, he was more than six months over age, and in addition to that, the Court took a view that since the Appellant was a fence sitter, he did not approach the Court in time and decided to file the writ application when he discovered that some similar reliefs have been granted to some other persons by the High Court but well after the recruitment was over.

5. Irrespective of the above reasons which have been assigned by the learned Single Judge, the fact remains that the advertisement was issued as far back as 28.04.2012. The recruitment exercise was completed, appointments have been done and since the appoints are not an ongoing exercise or process, therefore, a person cannot be ordered to be appointed at his convenience or timing.

6. An argument is made that there are still vacancies subsisting and therefore, there should not be any difficulty in directing the Respondent authorities to appoint the Appellant on similar ground of relaxation of age. To such submission, this Court has to observe that the left over vacancies, if any, will be required to be filled up in the next exercise of recruitment and those vacancies cannot be utilized through a judicial order to be filled up when it is not even the case of the Appellant that he was part of the select list of candidates and was on the wait list panel to be appointed against any subsisting vacancy.

7. The order of the learned Single Judge does not suffer from any infirmity. The appeal has no merit. It is dismissed.