

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)

**Case No. – OA 107 of 2021**

*Indranil Pal & Ors.* -- **VERSUS** – The State of West Bengal & Ors.

|                                 |                          |                                  |
|---------------------------------|--------------------------|----------------------------------|
| Serial No. and<br>Date of order | For the Applicants       | : Mr. A. Maiti,<br>Ld. Advocate. |
|                                 | For the State respondent | : Mr. M.N. Roy,<br>Ld. Advocate. |
| <u>04</u><br>20.07.2023         |                          |                                  |

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt.-II) dated 23<sup>rd</sup> November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

Although the Tribunal was of the opinion that this matter regarding appointment of Police Constables be heard by a Bench comprising two members (Judicial and Administrative), however, Mr. A. Maiti, learned counsel, disagrees and submits that this matter be continued to be heard by a single member as was heard earlier. Since Mr. Roy also do not oppose, let this matter be continued to be heard by this single Bench.

The prayer in this application is for setting aside the Recruitment Rule stipulating maximum age of recruitment at 27 years with 3 years of relaxation for reserved category candidates. Submitting on behalf of the applicants, Mr. Maiti refers to Writ Petition (C) No. 183 of 2013, in which the Hon'ble Apex Court passed an order, the relevant para relied by Mr. Maiti is as under :

*“Therefore, in every recruitment year, 8,000 Constables will be appointed annually. Thus viewed it was asserted, that by the year 2020, 28,357 Constables will be appointed, leaving only 1,487 vacancies in the cadre of Constables. It is submitted, that all remaining vacancies in the cadre of Constables, whether on account of retirement or for any other reason, will be positively filled up by the year 2020-21.”*

In view of such direction of the Hon'ble Apex Court, Mr. Maiti submits that the State is bound to follow the time-schedule as mandated by the Hon'ble Supreme Court.

In compliance to such direction of the Hon'ble Supreme Court, the

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State issued Memo. No. 2509 dated 26.12.2020 and finalised a plan to fill up 9282 vacant posts of Constables during the year 2020. Accordingly, this was advertised by the West Bengal Police Recruitment Board in January, 2021. In this advertisement, the age limit was fixed at not less than 18 years and not more than 27 years as on 01.01.2021. Since such recruitment process could not be initiated during the critical Covid period – March 2020 to November 2020, this advertisement issued in January, 2021, by then the applicants had crossed the age of 27 years. Submission is since the applicants were not at fault, the State respondents should have considered and relaxed the maximum age limit by one year for all the categories of candidates. Finally, Mr. Maiti relies on the judgment of the Hon'ble Supreme Court in (2022) 4 SCC 643 (High Court of Delhi v. Devina Sharma) and the relevant paras is as follows :

*“17. The time schedule for conducting the recruitment process to the judicial service has been stipulated by the judgment of this Court in Malik Mazhar Sultan (3) v. U.P. Public Service Commission. The object and purpose of the directions of this Court has been to ensure that the recruitment process for the judicial service is conducted on schedule every year, subject to the rules of each High Court. The High Court of Delhi held its last examination for recruitment to DJS in 2019. Admittedly, no examination has been held in 2020 or in 2021. The examination for 2020 could not be conducted since the process for 2019 was still to be completed. The examination for 2020 could not be held due to the onset of the COVID-19 Pandemic. In this backdrop, since the examination was not conducted for two recruitment years, the High Court has after considering the issue stated before this Court through the learned Senior Counsel that as a one-time measure, this Court may accept the suggestion that candidates who would have qualified for the examinations were they to be held on schedule for recruitment years 2020 and 2021 in terms of the rules as they then stood, may be permitted to appear for the ensuing examinations.*

*18. Having regard to the fact that the recruitment examination for*

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*DJS has been last held in 2019 and two recruitment years have elapsed in the meantime, we are of the view that the suggestion of the High Court should be accepted for this year. The consequence of the acceptance of the suggestion by this Court, would be that candidates who would have fulfilled the upper age limit of 32 years, for the recruitment years 2020 and 2021 would be eligible to participate in the examination for the ensuing recruitment year 2022. The age bar which they would now encounter is not of their own volition. The real element of hardship faced by such candidates has been remedied by the High Court and there is no reason for this Court not to accept the suggestion. The examination cannot however, be postponed indefinitely nor can the candidates who have applied be left in a state of uncertainty. The existing candidates can have no grievance by the widening of the competition. In order to facilitate this exercise, we accept the suggestion of the High Court that the last date for the receipt of application forms shall be extended to 3-4-2022 and the examination shall be held on 24-4-2022. We direct that no impediment shall be caused in the conduct of the examination and no court shall issue any order of stay at variance with or contrary to the above directions of this Court.”*

Concluding his submissions, Mr. Maiti submits that in view of the judgment of the Hon'ble Apex Court, the State respondents may be directed to relax the maximum qualifying age of the applicants by one year in the recruitment process for the post of Constables in the West Bengal Police Examination, 2020.

Let the submission of Mr. Roy, learned counsel for the State respondents may be heard on **09.08.2023**.

CSM/SS

**SAYEED AHMED BABA**  
**Officiating Chairperson & Member (A)**