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Writ Petition No.9912 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON 11.02.2026	PRONOUNCED ON 20.02.2026
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CORAM
THE HONOURABLE MR. JUSTICE C.V. KARTHIKEYAN
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU

Writ Petition No.9912 of 2022

H.Santhila PRemkumar

... Petitioner

Vs

- 1.The Registrar,
Central Administrative Tribunal,
Chennai – 600 104.
- 2.Union of India,
Represented by its Secretary (HFW) &
Chairman of Governing Boady of
Pasteur Insistute of India, Coonor,
Ministry of Health and Family Welfare,
Nirman Bhawan, New Delhi – 110 011.
- 3.The Director & Disciplinary Authority,
Pasteur Institute of India,
Coonor – 643 103,
Nilgiris District.

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records on the file of the first respondent bearing O.A.No.310/000723 of



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2019 dismissing the Original Application dated 11.02.2022 and quash the same and consequently direct the respondents 2 & 3 to take into account the 8 years of service of the petitioner in second respondent institution and regularize her services in the post of Research Assistant (Group C post) by relaxing the age as per the Recruitment Rules for the Post of Research Assistant of the second respondent and based on the Office Memorandum No.F.4/4/74-Esst.(D) dated 20.07.1976, No.15012/1/88-Estt.(D) dated 30.01.1980, 20.05.1988, 30.01.1990 of the Ministry of Personnel, Public Grievances & Pensions Department of Personnel & Training with effect from the date of her initial appointment as Research Assistant and to grant her all consequential service, attendant and monetary benefits and pass further orders.

For Petitioner : Mr.R.Viduthalai
Senior Counsel
for Ms.A.V.Bharathi

For R1 : Tribunal

For RR2 & 3 : Mr.T.V.Krishnamachari
Senior Panel Counsel

ORDER

(Order of the Court was made by Mr.K.KUMARESH BABU.,J.)

This writ petition has been filed by petitioner challenging the order of the Tribunal made in O.A.No.310/000723 of 2019 dated 11.02.2022 and for a consequential direction to the second and third respondents to take into account the 8 years of service of the petitioner in second respondent



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institution and regularize her services in the post of Research Assistant (Group C post) by relaxing the age as per the Recruitment Rules for the Post of Research Assistant based on the Office Memorandums with effect from the date of her initial appointment as Research Assistant and to grant her all consequential service, attendant and monetary benefits

2. Heard Mr.R.Viduthalai, learned Senior Counsel appearing on behalf of Ms.A.V.Bharathi, learned counsel for the petitioner and Mr.T.V.Krishnamachari, learned Senior Panel Counsel appearing on behalf of the second and third respondents.

3. Mr.R.Viduthalai, learned Senior Counsel appearing on behalf of the petitioner would submit that the petitioner pursuant to the advertisement issued by the third respondent in the year 1996 had joined the third respondent Institute at Coonoor as a Lab Technician which was followed by Junior Research Fellow and Senior Research Fellow on contract basis. In view of the training programme of Department of Virology, she was posted in Vaccine production Units.



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4. When that being so, an advertisement was issued by the third respondent in the year 2005 inviting applications to the post of Research Assistants Group-C. The petitioner had also submitted an application indicating her date of birth as 20.05.1967. He would submit that the petitioner was appointed as Research Assistant on 01.05.2006. On completion of 2 years of satisfactory probation period, she had made a representation on 03.11.2008 seeking to declare her probation. However, the petitioner was terminated by order dated 09.04.2009 by the third respondent on the sole ground that the petitioner was over aged at the time of appointment. He would further submit that the petitioner had challenged the said order of termination before the Central Administrative Tribunal in O.A.No.418 of 2009, which by order dated 11.12.2009 set aside the order of termination. The third respondent had challenged the same before this Court in W.P.No.9131 of 2011, wherein by order dated 29.10.2013, this Court upholding the order of Tribunal in setting aside the termination, however modified the same by granting liberty to the respondents to initiate proceedings if required to be taken and proceed in accordance with law.

5. He would submit that on 17.02.2015, a charge memorandum was



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issued to the petitioner alleging that on the date of advertisement, the petitioner was over aged and was not qualified to be appointed and that the appointment was made in violation of the Recruitment Rules and the bye-laws of the Institute. The imputation to the said charge was that the misconduct and misbehaviour of the petitioner in suppressing the age criteria which was in violation of the CCS (Conduct) Rules, 1964 (hereinafter referred to as 'the Rules'). He would submit that a reply by way of defence was also submitted by the petitioner and the same was also came to be challenged before the Central Administrative Tribunal in O.A.No.399 of 2016. However, the said O.A. came to be dismissed vide order dated 09.03.2016.

6. Again the petitioner had submitted a detailed representation on 22.03.2016 indicating that the petitioner had disclosed the date of birth in her application and only after taking note of the same, the petitioner had been appointed and there was no misconduct on the part of the petitioner. However, after the enquiry, the petitioner was visited with an order of dismissal on 31.05.2016 which came to be challenged by the petitioner in O.A.No.937 of 2016 which was disposed of by the Tribunal with a direction to the petitioner to exhaust the appellate remedy. Therefore, the petitioner

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had preferred an Appeal and the same came to be rejected without a speaking order. The same came to be challenged by the petitioner in O.A.No.23 of 2017 and after recording the admission made by the respondents that the order of the Appellate Authority was summary in nature, had directed the Appellate Authority to consider all relevant issues and pass a detailed speaking order. He would submit that in furtherance to the same, the Appellate Authority had revisited his order, but however reiterated that the punishment had been justified and rejected the case of the petitioner. Challenging the same, the petitioner had approached the Tribunal in O.A.No.723 of 2017, however the same had been rejected by the Tribunal holding that the Tribunal exercising the power of judicial review cannot interfere with the punishment that had been imposed on the petitioner.

7. He would submit that the petitioner cannot be held responsible for the appointment that had been made, on the ground that the petitioner was over aged at the time of appointment. Firstly, he would submit that the Authorities are empowered to relax the age for grant of appointment. He would also contend that the petitioner being an in-service candidate on contractual basis is more suitable than an open market candidate as the petitioner is aware of the Rules and procedures and also the work

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environment in the third respondent Institute. He would further submit that even assuming that the petitioner was at fault for an act that had happened prior to the petitioner being borne into regular service, the Rules could not have been applied.

8. He would submit that for any conduct of which there is a violation of the Rules after the recruitment had been made can only be a subject matter of the disciplinary proceedings under the Rules and not otherwise. He would submit that the authorities are well aware of the date of birth of the petitioner and the petitioner's selection had been made by the Committee and therefore, the appointment of the petitioner pursuant to the notification of the year 2005 cannot be faulted with. He would further submit that the appointment cannot be said to be illegal and utmost could only be irregular as the petitioner has all the qualification necessary for the appointment of the post apart from having experience in a similar post in the very same Institute, and has further been appointed by a open recruitment process.

9. Drawing attention to the Report filed by the Central Bureau of Investigation, he would submit that there are two other similarly placed persons whose appointment was also found to be not in consonance with the

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Recruitment Rules, however, it is his case that they had been continued in service even as of today. In such an event, he would submit that the same benefit could also be extended to the petitioner and the petitioner had been singled out and therefore, there is a violation of Article 14 of the Constitution of India. He had also placed reliance upon the Office Memorandums of the third respondent of succeeding years to contend that relaxation of age can be given to the recruitment in Group-C post. He would submit that all these aspects have been fully over-looked by the Tribunal in dismissing the Original Application which is impugned herein. Hence, he seeks indulgence of this Court to the order impugned in this Writ Petition.

10. Countering his arguments, Mr.T.V.Krishnamachari, learned Senior Panel Counsel appearing on behalf of the second and third respondents would submit that it is true that the petitioner had been originally appointed on contract basis. He would submit that as per the Recruitment Rules, the minimum age of 30 years had been prescribed for direct recruitment to the post in a Group-C cadre. He would submit that it is true that the petitioner had also disclosed her correct age in the application submitted by her.



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WEB COPY 11. He would submit that the entire recruitment process was found malicious as being in violation of the Recruitment Rules and based upon a source information, the CBI had registered an FIR under the Provisions of the Prevention of Corruption Act and IPC. After a thorough investigation, the same was closed by its closure Report in the year 2008, where also it had been found that there has been a violation of the Recruitment Rules, but there was no evidence to prove that the Selection Committee members had conspired to cheat the Institute and abuse their official position in making the recommendations. It had further recommended that regular departmental action for major penalty against the members of the respective Selection Committees for violation of the Rules.

12. He would contend that the members of the Selection Committees were also departmentally proceeded by initiating appropriate disciplinary proceedings against them and in respect of the members of the Selection Committee who were in service, punishments were imposed and in respect of members who had superannuated they were also imposed with punishment of with holding a percentage of their pension for a definite



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period and in respect of persons who had superannuated and gone beyond the limitation prescribed under the Pension Rules were not proceeded with.

Therefore, he would submit that the selection of the petitioner had been in violation of the Recruitment Rules and being employed in public engagement cannot be allowed to continue in service.

13. He would submit that it is misnomer to place reliance upon the Office Memorandums as claimed by the learned Senior Counsel for the petitioner. He would submit that such Office Memorandums have been issued for direct recruitment of Department candidates who were already working in the Department on regular basis alone and as the petitioner was not in a regular service and was only on a contractual service and therefore cannot be benefitted with the said Office Memorandums.

14. He would further submit that Article 14 of the Constitution of India as claimed by the learned Senior Counsel cannot also be made applicable to the facts of the case. Even if it is assumed that the similarly placed persons are permitted to be continued in service, it is only an illegality and the principles of Article 14 cannot be extended to a illegality



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on the part of the respondents. He would further submit that as the petitioner had been over aged and she was not entitled to be appointed in the service.

Further service rendered by her on contract basis cannot also enure to her benefit for relaxation of her age, apart from the fact that the entire Selection Committee had been found fault with for violation of the Recruitment Rules. The petitioner who had been appointed in violation of the Recruitment Rules cannot claim to continue in service and therefore, he would submit that there is no infirmity either in the orders passed by the third respondent or the Appellate Authority as upheld by the Tribunal in the orders impugned herein. Hence, he seeks dismissal of the Writ Petition.

15. We have considered the submissions made by the learned counsels appearing on either side and perused the materials available on record.

16. It is not disputed that the petitioner was over aged at the time of appointment as Research Assistant which is a Group-C post. It is also admitted that as per the Recruitment Rules, the age limit had been prescribed as 30 years. It is the case of the petitioner that she had been in contractual basis with the Institute and only on the oral instructions by her

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superiors, she had applied for the post and in open recruitment, the Selection Committee had recommended the name, pursuant to which her appointment was given. This would mean that the petitioner's appointment was not in consonance with the Recruitment Rules.

17. The learned Senior Counsel had tried to impress us by raising that it was not her fault for being appointed to the post, Office Memorandums envisaging relaxation of Rules and that similarly placed persons have been allowed to continue in service. On the other hand, it is the case of the respondents that the members of the Selection Committee who had recommended the name of the petitioner were all departmentally proceeded based upon the recommendations of the Central Bureau of Investigation and was also been inflicted with punishments, that the Office Memorandums do not relate to an outsider, but only relates to a regularly appointed in-service candidates in a lower cadre to enable them to participate in the recruitment process to a Group-C post and that Article 14 cannot be invoked as the continuation of service of the similarly placed persons would only amount to illegality.



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18. With regard to the claim that the petitioner had been appointed regularly through open recruitment by a Selection Committee, it is to be noted that the recommendations of the Selection Committee is contrary to the Recruitment Rules. The members of the Selection Committee have also been proceeded with departmentally and were awarded punishments. Hence, in that context, the appointment of the petitioner can only be beyond the Recruitment Rules and hence, the petitioner firstly cannot be permitted to contend that such appointment is only irregular and not illegal.

19. With regard to the claim of relaxation of age by relying upon the Office Memorandums, it is to be noted that such Office Memorandums, as rightly pointed out by the learned Standing Counsel appearing for respondent, only relates to granting of relaxation to regularly appointed in-service candidates to enable them to participate in the recruitment process for a Group-C post. Hence, such Office Memorandums relied upon by the learned Senior Counsel for the petitioner cannot also be extended to her for the grant of age relaxation. The Recruitment Rules also do not envisage the relaxation for direct recruitment to a Group-C post.



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20. With regard to the claim of applicability of Article 14 of the Constitution of India, as rightly pointed out by the learned Standing Counsel for the respondents, the principles of Article 14 cannot be extended to an illegality, it is for the Department to act on such illegality.

21. For the aforesaid reasons, we do not find any infirmity or illegality in the orders impugned herein warranting interference by this Court. Accordingly, the Writ Petition stands dismissed. However, there shall be no order as to costs.

(C.V.K.,J.) (K.B., J.)
20.02.2026

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
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To

1.Union of India,
Represented by its Secretary (HFW) &
Chairman of Governing Boady of
Pasteur Insistute of India, Coonoor,
Ministry of Health and Family Welfare,
Nirman Bhawan, New Delhi – 110 011.

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सत्यमेव जयते
2. The Director & Disciplinary Authority,
Pasteur Institute of India,
Coonoor – 643 103,
Nilgiris District.



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C.V. KARTHIKEYAN., J.
and
K.KUMARESH BABU.,J.

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A Pre-delivery judgment made in
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20.02.2026