

**IN THE HIGH COURT OF MADHYA PRADESH  
AT GWALIOR**

**BEFORE**

**HON'BLE SHRI JUSTICE ANAND PATHAK**

**ON THE 6<sup>th</sup> OF FEBRUARY, 2024**

**WRIT PETITION NO. 1107 of 2024**

**BETWEEN:-**

**DR RASHMI CHAUDHARY W/O SHRI ARVIND  
YADAV, AGED ABOUT 52 YEARS, OCCUPATION:  
GUEST FACULTY GOVT K. R. G. COLLEGE  
GWALIOR R/O 60/1121 YAMUNA NAGAR,  
THATIPUR, GWALIOR MP (MADHYA PRADESH)**

**.....PETITIONER**

***(BY SHRI PRATIP VISORIYA - ADVOCATE)***

**AND**

- 1. STATE OF MADHYA PRADESH THROUGH  
PRINCIPAL SECRETARY, DEPARTMENT OF  
HIGHER EDUCATION, VALLABH BHAWAN  
BHOPAL (MADHYA PRADESH)**
- 2. COMMISSIONER, HIGHER EDUCATION  
DEPARTMENT, SATPUDA BHAWAN, BHOPAL  
(MADHYA PRADESH)**
- 3. M.P. PUBLIC SERVICE COMMISSION, THROUGH  
ITS SECRETARY, RESIDENCY AREA, INDORE  
(MADHYA PRADESH)**
- 4. EXAM CONTROLER, M.P. PUBLIC SERVICE  
COMMISSION, RESIDENCY AREA, INDORE  
(MADHYA PRADESH)**

**.....RESPONDENTS**

**(BY SHRI NEELESH SINGH TOMAR- GOVERNMENT  
ADVOCATE AND SHRI RAVINDRA DIXIT - ADVOCATE  
FOR RESPONDENTS NO.3 &4)**

**WRIT PETITION NO. 864 of 2024**

**BETWEEN:-**

DR MANI TYAGI D/O DR L. C. TYAGI, AGED ABOUT 51 YEARS, OCCUPATION: GUEST FACULTY R/O 59 NEHRU COLONY, THATIPUR GWALIOR (MADHYA PRADESH)

.....PETITIONER

*(BY SHRI K.K. SHARMA - ADVOCATE)*

**AND**

1. STATE OF MADHYA PRADESH THROUGH ITS PRINCIPAL SECRETARY, HIGHER EDUCATION DEPARTMENT, VALLABH BHAWAN BHOPAL (MADHYA PRADESH)
2. M.P. PUBLIC SERVICE COMMISSION THROUGH ITS SECRETARY, RESIDENCY AREA, INDORE (MADHYA PRADESH)

.....RESPONDENTS

*(BY SHRI NEELESH SINGH TOMAR- GOVERNMENT ADVOCATE AND SHRI RAVINDRA DIXIT - ADVOCATE FOR RESPONDENT NO.2)*

**WRIT PETITION NO. 7079 of 2023**

**BETWEEN:-**

DR. KALAPANA SHARMA W/O SHRI SUDHINDRA SHARMA, AGED ABOUT 51 YEARS, OCCUPATION: GUEST FACULTY LECTURER, TEACHING AT P.G. COLLEGE GUNA SINCE 2006 R/O DEEP SHIKHA HANUMAN COLONY NEAR MOTI CHILDREN SCHOOL, GUNA (MADHYA PRADESH)

.....PETITIONER

*(BY SHRI R.P. SINGH - ADVOCATE)*

**AND**

1. STATE OF MADHYA PRADESH THROUGH PRINCIPAL SECRETARY, DEPARTMENT OF HIGHER EDUCATION, VALLABH BHAWAN BHOPAL (MADHYA PRADESH)
2. PRINCIPAL SECRETARY, GENERAL ADMINISTRATION DEPARTMENT (GAD), VALLABH BHAWAN, BHOPAL (MADHYA PRADESH)
3. COMMISSIONER, DEPARTMENT OF HIGHER EDUCATION, SATPUDA BHAWAN, BHOPAL

- (MADHYA PRADESH)
4. M.P. PUBLIC SERVICE COMMISSION, THROUGH ITS SECRETARY, RESIDENCY AREA 1, INDORE (MADHYA PRADESH)
  5. UNIVERSITY GRANT COMMISSION (UGC) THROUGH ITS CHAIRMAN, BAHADUR SHAH ZAFAR MARG, NEW DELHI.
  6. UNION OF INDIA THROUGH ITS SECRETARY, MINISTRY OF HUMAN RESOURCE DEVELOPMENT NORTH BLOCK NEW DELHI.

.....RESPONDENTS

(BY SHRI NEELESH SINGH TOMAR- GOVERNMENT ADVOCATE AND SHRI RAVINDRA DIXIT - ADVOCATE FOR RESPONDENT NO.4)

**WRIT PETITION NO. 7095 of 2024**

**BETWEEN:-**

DR. KRISHANA DUBEY W/O SHRI DEVENDRA DUBEY, AGED ABOUT 51 YEARS, OCCUPATION: GOVT. SERVICE (PRESENTLY WORKING AS BLI - BLOCK LEVEL INVESTIGATOR) R/O NEAR LBS COLLEGE SURESH NAGAR THATIPUR MORAR, GWALIOR (MADHYA PRADESH)

.....PETITIONER

*(BY SHRI R.P. SINGH - ADVOCATE)*

**AND**

1. STATE OF MADHYA PRADESH THROUGH PRINCIPAL SECRETARY, DEPARTMENT OF HIGHER EDUCATION, VALLABH BHAWAN BHOPAL (MADHYA PRADESH)
2. PRINCIPAL SECRETARY, GENERAL ADMINISTRATION DEPARTMENT (GAD), VALLABH BHAWAN, BHOPAL (MADHYA PRADESH)
3. COMMISSIONER, DEPARTMENT OF HIGHER EDUCATION, SATPUDA BHAWAN, BHOPAL (MADHYA PRADESH)
4. M.P. PUBLIC SERVICE COMMISSION, THROUGH ITS SECRETARY, RESIDENCY AREA 1, INDORE (MADHYA PRADESH)
5. UNIVERSITY GRANT COMMISSION (UGC) THROUGH ITS CHAIRMAN, BAHADUR SHAH

- ZAFAR MARG, NEW DELHI.
6. UNION OF INDIA THROUGH ITS SECRETARY,  
MINISTRY OF HUMAN RESOURCE  
DEVELOPMENT NORTH BLOCK NEW DELHI.

.....RESPONDENTS

(BY SHRI NEELESH SINGH TOMAR– GOVERNMENT  
ADVOCATE AND SHRI RAVINDRA DIXIT – ADVOCATE  
FOR RESPONDENT NO.4)

**WRIT PETITION NO. 1108 of 2024**

**BETWEEN:-**

DR. ANITA TOMAR W/O SHRI ASHOK SINGH  
TOMAR, AGED ABOUT 50 YEARS, OCCUPATION:  
GUEST FACULTY GOVT. COLLEGE GORMI BHIND  
R/O 51 KANTI NAGAR TANSEN ROAD, GWALIOR  
MP (MADHYA PRADESH)

.....PETITIONER

*(BY SHRI PRATIP VISORIYA - ADVOCATE)*

**AND**

1. STATE OF MADHYA PRADESH THROUGH  
PRINCIPAL SECRETARY, HIGHER EDUCATION  
DEPARTMENT, VALLABH BHAWAN BHOPAL  
(MADHYA PRADESH)
2. COMMISSIONER, HIGHER EDUCATION  
DEPARTMENT, SATPUDA BHAWAN, BHOPAL  
(MADHYA PRADESH)
3. M.P. PUBLIC SERVICE COMMISSION, THROUGH  
ITS SECRETARY, RESIDENCY AREA, INDORE  
(MADHYA PRADESH)
4. EXAM CONTROLER, M.P. PUBLIC SERVICE  
COMMISSION, RESIDENCY AREA, INDORE  
(MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI NEELESH SINGH TOMAR– GOVERNMENT  
ADVOCATE AND SHRI RAVINDRA DIXIT – ADVOCATE  
FOR RESPONDENTS NO.3 &4)

**WRIT PETITION NO. 1109 of 2024**

**BETWEEN:-**

**DR RASHMI SINGH W/O SHRI MANISH SINGH CHAUHAN, AGED ABOUT 50 YEARS, OCCUPATION: GUEST FACULTY IN HIGHER EDUCATION R/O E-1 TAPPA TEH PREMISES 7 NO. CHAURAHA MORAR, GWALIOR (MADHYA PRADESH)**

**.....PETITIONER**

***(BY SHRI PRATIP VISORIYA - ADVOCATE)***

**AND**

- 1. STATE OF MADHYA PRADESH THROUGH PRINCIPAL SECRETARY, HIGHER EDUCATION DEPARTMENT, VALLABH BHAWAN BHOPAL (MADHYA PRADESH)**
- 2. COMMISSIONER, HIGHER EDUCATION DEPARTMENT, SATPUDA BHAWAN, BHOPAL (MADHYA PRADESH)**
- 3. M.P. PUBLIC SERVICE COMMISSION, THROUGH ITS SECRETARY, RESIDENCY AREA, INDORE (MADHYA PRADESH)**
- 4. EXAM CONTROLER, M.P. PUBLIC SERVICE COMMISSION, RESIDENCY AREA, INDORE (MADHYA PRADESH)**

**.....RESPONDENTS**

**(BY SHRI NEELESH SINGH TOMAR- GOVERNMENT ADVOCATE AND SHRI RAVINDRA DIXIT - ADVOCATE FOR RESPONDENTS NO.3 &4)**

**WRIT PETITION NO. 1977 of 2024**

**BETWEEN:-**

**DR. MANJU MAHOR D/O SHRI LATE BHAROSI LAL MAHOR, AGED ABOUT 52 YEARS, OCCUPATION: GUEST FACULTY IN GOVERNMENT COLLEGE POOPH R/O NEAR LAKKADKHANA BRIDGE, IN FRONT OF GAJANAND SCHOOL, GWALIOR (MADHYA PRADESH)**

**.....PETITIONER**

*(BY SHRI PRATIP VISORIYA - ADVOCATE)*

**AND**

1. STATE OF MADHYA PRADESH THROUGH PRINCIPAL SECRETARY, HIGHER EDUCATION DEPARTMENT, VALLABH BHAWAN BHOPAL (MADHYA PRADESH)
2. COMMISSIONER, HIGHER EDUCATION DEPARTMENT, SATPUDA BHAWAN, BHOPAL (MADHYA PRADESH)
3. M.P. PUBLIC SERVICE COMMISSION, THROUGH ITS SECRETARY, RESIDENCY AREA, INDORE (MADHYA PRADESH)
4. EXAM CONTROLER, M.P. PUBLIC SERVICE COMMISSION, RESIDENCY AREA, INDORE (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI NEELESH SINGH TOMAR– GOVERNMENT ADVOCATE AND SHRI RAVINDRA DIXIT – ADVOCATE FOR RESPONDENTS NO.3 &4)

**WRIT PETITION NO. 1978 of 2024**

**BETWEEN:-**

DR. RAJ KUMAR SHARMA S/O SHRI KASHIRAM SHARMA, AGED ABOUT 54 YEARS, OCCUPATION: GUEST FACULTY IN GOVT GIRLS COLLEGE BHIND R/O NEAR WATER WORKS TEEN TOWERE GALI WARD NO 3, BHIND (MADHYA PRADESH)

.....PETITIONER

*(BY SHRI PRATIP VISORIYA - ADVOCATE)*

**AND**

1. STATE OF MADHYA PRADESH THROUGH PRINCIPAL SECRETARY, HIGHER EDUCATION DEPARTMENT, VALLABH BHAWAN BHOPAL (MADHYA PRADESH)
2. COMMISSIONER, HIGHER EDUCATION DEPARTMENT, SATPUDA BHAWAN, BHOPAL (MADHYA PRADESH)
3. M.P. PUBLIC SERVICE COMMISSION, THROUGH ITS SECRETARY, RESIDENCY AREA, INDORE (MADHYA PRADESH)

4. EXAM CONTROLER, M.P. PUBLIC SERVICE COMMISSION, RESIDENCY AREA, INDORE (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI NEELESH SINGH TOMAR– GOVERNMENT ADVOCATE AND SHRI RAVINDRA DIXIT – ADVOCATE FOR RESPONDENTS NO.3 &4)

**WRIT PETITION NO. 1980 of 2024**

**BETWEEN:-**

DR. RANJANA CHAUHAN W/O SHRI MAHAVEER SINGH CHAUHAN, AGED ABOUT 48 YEARS 2 MONTHS OCCUPATION: GUEST FACULTY IN PG COLLEGE GUNA R/O 207 NAYAPURA GUNA (MADHYA PRADESH)

.....PETITIONER

(BY SHRI PRATIP VISORIYA - ADVOCATE)

**AND**

1. STATE OF MADHYA PRADESH THROUGH PRINCIPAL SECRETARY, HIGHER EDUCATION DEPARTMENT, VALLABH BHAWAN BHOPAL (MADHYA PRADESH)
2. COMMISSIONER, HIGHER EDUCATION DEPARTMENT, SATPUDA BHAWAN, BHOPAL (MADHYA PRADESH)
3. M.P. PUBLIC SERVICE COMMISSION, THROUGH ITS SECRETARY, RESIDENCY AREA, INDORE (MADHYA PRADESH)
4. EXAM CONTROLER, M.P. PUBLIC SERVICE COMMISSION, RESIDENCY AREA, INDORE (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI NEELESH SINGH TOMAR– GOVERNMENT ADVOCATE AND SHRI RAVINDRA DIXIT – ADVOCATE FOR RESPONDENTS NO.3 &4)

---

*This petition coming on for admission this day, the court passed the following:*

**ORDER**

1. Regard being had to the similitude of the issue involved, all the writ petitions were heard analogously and decided by this common order. For convenience sake, facts of Writ Petition No.1107/2024 are taken into consideration.
2. The present petition (Writ Petition No.1107/2024) under Article 226 of the Constitution is preferred by the petitioner seeking following reliefs:

*“1. That, the condition contained in advertisement dated 30.12.2022 (Annexure-P/1) and in corrigendum dated 18.12.2023 (Annexure-P/2) which restrict the candidate to appear in exam who is above 48 years may kindly be quashed;*

*2. That, respondents may kindly be directed to Permit the Petitioner to participate in the selection process for assistant professor;*

*3. That, any other relief which this Hon'ble High Court may deem fit, with cost of the petition.”*

3. Precisely stated facts of the case are that the petitioner is working as Guest Faculty against the post of Assistant Professor (Geography) in Higher Education Department. Petitioner acquired Ph.D. and passed National Eligibility Test. She is serving as Guest Faculty in the Colleges of Higher Education Department since 2004. In the State of Madhya Pradesh after 1990-93, M.P. Public Service Commission did not conduct any examination for the appointment to the post of Assistant Professors till 2017. Therefore, gap of around 24 years ensued and this rendered many



aspirants for teaching job as Guest Faculty Teachers where they perform duties on meagre sum. Some turned over age.

4. Respondent No.3 - M.P. Public Service Commission issued an advertisement on 30-12-2022 inviting applications for Assistant Professors on different disciplines in which last date was 19-03-2023. It appears that after last date for examination, some corrigendum was issued for including the information regarding State Eligibility Test (SET) vide corrigendum dated 18-12-2023. In short, process is still in the initial stage.
5. On 05-10-2023 (Annexure P/3) Higher Education Department, Government of Madhya Pradesh issued an order in which certain decisions were reflected regarding reservation and extension of limit for age relaxation. Immediately thereafter on 06-10-2023, the said proposal as reflected in the order dated 05-10-2023 was finalized and it was clarified that Guest Faculty Teachers would be bestowed with benefit of age relaxation for maximum 10 years in which every academic session would fetch the benefit of one year each towards age relaxation.
6. Now petitioner wants to avail the said benefit and wants to submit her examination papers but she is restricted by the interpretation of circular. Her examination form has not been accepted by the website of M.P. Public Service Commission, therefore, this petition has been preferred.
7. It is the submission of learned counsel for the petitioners that once age relaxation has been given by the State Government vide order dated 06-10-2023 as employer, then respondents No.3 and 4 being Selection Agency are not legally authorized to reject the

examination form. State Government has given the age relaxation to the extent of 10 years. Earlier General Administration Department extended maximum age for Guest Faculty Teachers vide circular dated 20-12-2022. Three years extension was given in addition to this, by circular dated 18-09-2022 because of wrath of COVID-19 pandemic. Therefore, before issuance of order dated 06-10-2023, Guest Faculty candidates could apply till 48 years of age. With the aid of recent circular dated 06-10-2023 now they can apply till 58 years of age (in case of SC/ST/OBC/Women). For General category candidate maximum age would be 53 years.

8. Petitioner – Dr. Rashmi Chaudhary is 53 years of age. Therefore, being woman, she can avail the benefit up to 58 years of age.
9. It is further submitted that purpose of this circular is to grant benefit to the affected parties and that can only be the guiding feature for issuance of the said circular. Therefore, while relying the judgments of Apex Court in the case of **Workmen of Dimakuchi Tea Estate Vs. Management of Dimakuchi Tea Estate, AIR 1958 SC 353** and **Badshah Vs. Sou. Urmila Badshah Godse and another, AIR 2014 SC 869**, it is submitted that circular is to be given purposive interpretation to reach to its intent. Otherwise it may reach to injustice.
10. Learned counsel for the petitioner also referred the order dated 19-10-2023 passed by the Division Bench at Principal Seat Jabalpur in bunch of writ petitions in which Writ Petition No.3709/2023 (Dr. Rachna Agrawal & Anr. Vs. State of M.P. & Ors.) was the lead case. In said case, Government Counsel placed

a circular dated 06-10-2023 on which learned Division Bench held that said candidates (petitioners therein) would be entitled to take benefit of the said order dated 06-10-2023. Therefore, the present petitioners are also entitled to get the said benefit flowing from the circular dated 06-10-2023.

11. It is further submitted that for last more than 20 years, petitioners and many other Guest Faculties are performing their duties as Assistant Professors on very meagre sum. This is a chance for them to appear in the competitive examinations to ameliorate for better exacting in life. Restrictive meaning would infringe Fundamental Rights of petitioners enshrined in Articles 14, 16 and 19 of the Constitution.
12. *Per contra*, learned counsel for the respondents/State employer opposed the prayer and submitted that circular dated 06-10-2023 is for next three examinations which would come in near future and the present examination in which the advertisement has already been issued, cannot be included as examination where petitioner can be granted the benefit of appearance in the examination. Petitioners would certainly have liberty and benefit to appear in subsequent examinations.
13. Learned counsel for respondents No.3&4 M.P. Public Service Commission/Selection Agency opposed the submissions made by petitioner's counsel and submitted that advertisement was also issued in December, 2022 and as per the spirit of circular next advertisement if issued for appointment of Assistant Professors then petitioner shall be entitled to appear in the fray otherwise not. Till date State Government has not directed M.P. Public

Service Commission to implement the circular and in absence thereof, it is an empty formality. Thus, prayed for dismissal of this petition.

14. Heard learned counsel for the parties at length and perused the documents appended thereto.
15. In the case in hand, petitioner is Guest Faculty Teacher and is seeking the benefit of age relaxation to the maximum extent of 10 years as mandated by the order dated 06-10-2023 by Higher Education Department. The said order is passed in pursuance to the Cabinet decision taken on 26-09-2023. Relevant provision under discussion deserves reiteration to get the feel of Legislative/Executive Intent in this regard:

"(1) .....

(2) अतिथि विघ्न के भी पीछा में निर्दिष्ट आयु सीमा में  
अध्ययन अग्रिम (अतिथि विघ्न नीति वर्ष 2019 के  
अनुसार) के बावजूद अर्थात् एक आवधिक स्तर के अग्रिम के  
लिए एक वर्ष विन्तु अधिकतम 10 वर्षों के छूट प्रदान की  
जाती है। आयु सीमा में यह छूट सम्बन्ध प्रारम्भ विभाग द्वारा  
निर्दिष्ट अधिकतम आयु सीमा के अस्तित्व में है। आयु सीमा  
में छूट आयु 03 भी विज्ञापन तक सीमित रहेगी।"

16. The contention of respondents is that advertisement for examination of Assistant Professors was issued on 30-12-2022 and therefore, this benefit of age relaxation shall not be available to the petitioner in the present examination, rather it shall be

available in three future examinations. But, it appears that interpretation is other way round, it prescribes that benefit of age relaxation shall be available to three advertisements at the most. It does not mean that it would be applicable in three future examinations but it reflects that it would be available for three further examinations. Phrase **असु सीम में छूट आगामी 03 भी विज्ञापन त्रिसीमित रहेगी** is to be read as if it prescribes the extent to which benefit of age relaxation would be available in three future examinations. Therefore, **“Extent of application”** of circular cannot be construed as three future examinations excluding the present advertisement. In the considered opinion of this Court, the instant exam is included for the purpose of extending benefit of age relaxation. Therefore, on this count also, case of petitioner deserves consideration because legislative intent indicates so.

17. If the purpose of Cabinet would have been to extend the benefit in future examinations excluding instant examination, then what was the necessity to issue such circular in October, 2023. Cabinet could have decided on some other day in future when they would have undertaken another recruitment drive for appointment to the post of Assistant Professors (excluding the present advertisement). Therefore, in facts and circumstances of the case, the actual legislative intent is to be seen otherwise one may miss the purpose for which circular has been issued.
18. The circular which has been discussed above is to be read in its entirety because its purpose is to do justice to all the parties. Any

construction leading to confusion and absurdity must be avoided. The construction that results in hardship, serious inconvenience or anomaly or gives unworkable and impracticable results, should be avoided. The Court has not only to take a pragmatic view while interpreting a statutory provision, but must also consider the practical aspect of it {**Vide: In Directorate of Enforcement Vs. Deepak Mahajan**, AIR 1994 SC 1775, **Corporation Bank Vs. Saraswati Abharansala & Anr.**, (2009) 1 SCC 540, **Sonic Surgical Vs. National Insurance Co. Ltd.**, (2010) 1 SCC 135 and **Union of India v. Ranbaxy Laboratories Ltd.**, AIR 2008 SC 2286}.

19. Purposive interpretation needs to be given to the circular and that interpretation leads to one conclusion that examinations for which advertisement is issued is also included in which benefit of age relaxation can be availed of. Otherwise, timing of circular would be missed absolutely.
20. Present examination is nowhere excluded in specific term and unless instant examination would have been excluded through interpretation, the whole purpose of issuance of circular would have been deviated. Because the State Government is not sure when next advertisement would be issued, therefore, it would be travesty of justice to issue such circular which does not include the present advertisement for age relaxation. In **Sheikh Gulfan Vs. Sant Kumar Ganguli**, AIR 1965 SC 1839, it has been held:

*“78. Any interpretation which eludes or frustrates the recipient of justice is not to be followed. Justice means justice between both the parties. Justice is the*

*virtue, by which the Court gives to a man what is his due. Justice is an act of rendering what is right and equitable towards one who has suffered a wrong. The underlying idea is of balance. It means to give to each his right. Therefore, while tempering the justice with mercy, the Court has to be very conscious that it has to do justice in exact conformity with the statutory requirements.*

*79. Thus, it is evident from the above referred law, that the Court has to interpret a provision giving it a construction agreeable to reason and justice to all parties concerned, avoiding injustice, irrationality and mischievous consequences. The interpretation so made must not produce unworkable and impracticable results or cause unnecessary hardship, serious inconvenience or anomaly. The court also has to keep in mind the object of the legislation.”*

21. On the basis of cumulative analysis and discussion made above, petitioners made out their case. Petitions succeed and are hereby allowed. Petitioners are entitled to avail the benefit of age relaxation for pending advertisement issued earlier by the M.P. Public Service Commission on 30-12-2022. Petitioners are entitled to submit examination form. If online window is opened then petitioners may submit their examination forms and if it is not, then M.P. Public Service Commission is directed to accept examination forms of petitioners and other similarly placed persons so as to avoid multiplicity of litigation.

It is made clear that case of petitioner of Writ Petition No.1978/2024 (Dr. Raj Kumar Sharma Vs. The State of Madhya Pradesh & Ors.) appears to be different than the other petitioners who have been given the benefit of age relaxation by this common order.

**22. Petition stands allowed and disposed of.**

**(ANAND PATHAK)  
JUDGE**

Anil\*