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IN THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL AT
BANGALORE

DATED, THIS THE 21st DAY OF SEPTEMBER, 2020

PRESENT

HON'BLE Dr. JUSTICE K.BHAKTHAVATSALA, CHAIRMAN

AND

HON'BLE Dr.S.K.PATTANAYAK, ADMINISTRATIVE MEMBER

APPLICATION NO.3822/2020

BETWEEN

Dr. MANU BA. SHIVASALI,
Son of Basavaraja S.V.,
Aged about 25 years 8 months,
Working as General Duty Medical Officer (contract basis),
Primary Health Centre, Kalledevarapura,
Taluk Jagalur, Davanagere District – 577 528,
Residing at Medara Oni, Near Durgamma Temple,
Mariyammanahalli – 583 222

APPLICANT

(By Dr.J.S.Halashetti, Advocate)

AND

1. THE STATE OF KARNATAKA,
Represented by the Chief Secretary,
Department of Personnel & Administrative
Reforms, Vidhana Soudha,
Bengaluru – 560 001
2. THE STATE OF KARNATAKA,
Represented by the Additional Chief Secretary
to Government,
Department of Health & Family Welfare Services,
No.105, 1st Floor, Vikas Soudha,
Bengaluru – 560 001

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3. THE MEMBER SECRETARY,
Special Recruitment Committee &
Chief Administrative Officer,
Health & Family Welfare Services,
Ananda Rao Circle,
Bengaluru - 560 009

RESPONDENTS

(By Sri V.Shivareddy,
Government Pleader)

This Application is filed under Section 19 of the Administrative Tribunals Act, 1985, praying for **quashing** the Gazette Notification bearing No.HFW.71.HSH.2019 dated 25.8.2020 at **Annexure A-16** on the file of Respondent No.2, in so far as it relates to amended Rule 4 of the Karnataka Directorate of Health and Family Welfare Services (Recruitment of Senior Medical Officers/Specialists, General Duty Medical Officers and Dental Health Officers) (Special) Rules, 2020, wherein the words "Twenty One" are substituted with the words "Twenty Six" and quash the prescribed minimum age limit of 26 years to apply for various posts, including the post of General Duty Medical Officer, notified in Recruitment Notification bearing No.SRC/68/2019-20 dated 10.9.2020 at **Annexure A-17** on the file of Respondent No.3 and, consequently, for **direction** to Respondent No.3 to allow the Applicant **to apply for the post of General Duty Medical Officer** shown at serial No.11 of the Recruitment Notification dated 10.9.2020 at **Annexure A-17**, and consider his application for the said post.

This Application coming up for Preliminary Hearing, this day, the **Hon'ble Chairman** made the following

ORDER:

Applicant is before this Tribunal praying for the following reliefs:

- (1) To **quash** the Gazette Notification bearing No.HFW.71.HSH.2019 dated 25.8.2020 at **Annexure**

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A-16 on the file of Respondent No.2, in so far as it relates to substitution of words "twenty six" for the words "twenty one" in Rule 4 of the Karnataka Directorate of Health and Family Welfare Services (Recruitment of Senior Medical Officers/Specialists, General Duty Medical Officers and Dental Health Officers) (Special) Rules, 2020;

- (2) to **quash** the prescribed minimum age limit of 26 years to apply for various posts, including the post of General Duty Medical Officer, notified in Recruitment Notification bearing No.SRC/68/2019-20 dated 10.9.2020 at **Annexure A-17** on the file of Respondent No.3 and, consequently,
- (3) to **direct** Respondent No.3 to allow the Applicant **to apply for the post of General Duty Medical Officer** shown at serial No.11 of the Recruitment Notification dated 10.9.2020 at **Annexure A-17**, and consider his application for the said post.

2. Learned counsel for the Applicant submits that the Applicant acquired MBBS Degree during December, 2016 from Bangalore

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Medical College & Research Institute, Bengaluru and presently he is working on contract basis as General Duty Medical Officer at Primary Health Centre, Kalladevarapura village, Davanagere District; that by Notification dated 16.6.2020 (vide Annexure A-13) Government in the Department of Health & Family Welfare Services (Respondent No.2) notified Rules called "the Karnataka Directorate of Health and Family Welfare Services (Recruitment of Senior Medical Officers/Specialists, General Duty Medical Officers and Dental Health Officers) (Special) Rules, 2020" (for short, "Special Rules") with a view to fill up 2158 various cadres of posts as mentioned in the Schedule to Annexure A-13; that as per the Special Rules at Rule 4 age limit for various posts is that the candidate must have attained the age of "twenty one years" and not attained the age of "forty two years" as on the date specified for receipt of applications, but as per Notification dated 14.7.2020 (vide Annexure A-14) the Government issued Draft Amendment Rules, 2020 proposing to amend Rule 4 of the Special Rules and substitute minimum age limit for recruitment as "twenty six years" instead of "twenty one years"; that as per Annexure A-15 dated 27.7.2020 Applicant filed objections to the said Draft Rules, contending, among others, that usually a person would complete

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MBBS at 23 – 24 years of age and he would be allowed to register and practice medicine and thus there is no need to increase the minimum age limit and that the object of Special Rules is to enable Doctors working on contract basis to apply for the posts under the Special Rules but the amendment of age limit would defeat the very purpose of framing Special Rules; that by Notification dated 25.8.2020 (vide Annexure A-16) the Government has amended the Special Rules in so far as age limit is concerned by substituting the words "twenty six" for the words "twenty one"; that on 10.9.2020 (at Annexure A-17) the Department of Health and Family Welfare Services (Respondent No.3) issued Recruitment Notification calling online applications for recruitment, inter alia, to 1095 posts (including 151 posts for Local Cadre) of General Duty Medical Officer, prescribing 15.10.2020 as the last date for submission of online applications; that Applicant's date of birth being 29.12.1994, he is aged about 25 years and 8 months and even as on the last date stipulated for making applications he would not attain the minimum age of 26 years and thus he would not be able to make application and hence enhancement of minimum age limit from 21 to 26 years for recruitment in the impugned Rules and the Recruitment Notification is arbitrary; that for the post of General

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Duty Medical Officer the qualification prescribed is only MBBS Degree and no experience is prescribed for the said post or any other posts notified and when a person would be able to complete MBBS at the Age of 21 years, there is no justification to fix minimum age limit at 26 years and make him to wait for job for nearly five years; that no reason is assigned in the impugned Amendment Rules for enhancing the minimum age limit from 21 to 26 years and the impugned Rules and Recruitment Notification are arbitrary and discriminatory and the Application may be allowed as prayed for.

3. Learned Government Pleader submits that prescription of age limit for recruitment is within the domain of Rule-making Authority and the Application is devoid of merit.

4. The grievance of the Applicant is that the Special Amendment Rules increasing minimum age limit from 21 to 26 years deprives candidates like the Applicant of opportunity of making application for recruitment. It is of common knowledge that MBBS is only a basic qualification to become a Doctor. One can acquire MBBS at the age of 21 or 22 years. Thereafter a candidate prosecutes higher studies like Master's Degree in specialized subject followed by

super-speciality course to compete in this advanced medical field and in this way a candidate requires 3 to 4 years to acquire these specialized courses. It appears that keeping this in mind, the rule-making Authority has enhanced the minimum age limit from 21 to 26 years for almost all posts in higher echelon in the Department of Health and Family Welfare Services. We find no arbitrariness in the enhancement of upper age limit to 26 years for recruitment to General Duty Medical Officer and other posts as per the impugned Amendment Rules and prescription of the said age limit in the impugned Recruitment Notification. When the Applicant does not fulfill the eligibility criteria relating to age limit he cannot complain that the qualification of age limit is arbitrary or tailor-made. It is well settled that prescribing of an age limit for a given post and also deciding the extent to which any relaxation can be given if an age limit is prescribed, are essentially matters of policy of the Government and it cannot be termed as arbitrary or unreasonable. It is not for Tribunal to direct the Government to have a particular method of eligibility criteria or substitute its views for that of the State. Power of judicial review in such matters can be exercised only if it is shown that the action of the Rule-making Authority is patently arbitrary or is vitiated due to mala fides. **(Relied on**

P.U.JOSHI v. ACCOUNTANT GENERAL (2003) 2 SCC 632 and UNION OF INDIA v. PUSHPA RANI, 2008 AIR SCW 6564).

Applicant has not made out any ground to interfere with the impugned Amendment Rules or the Recruitment Notification in so far as minimum age limit is concerned. Consequently, no direction can be issued to Respondent No.3 to accept application from Applicant for recruitment to post of General Duty Medical Officer and consider the same, as any such direction would be contrary to scheme of recruitment. The first prayer the Applicant has sought for quashing the prescription of upper age limit for all the posts notified in the Recruitment Rules; whereas in the second prayer he has challenged prescription of upper age limit for the post of General Duty Medical Officer. They are interlinked. We see no good ground to entertain the Application.

5. In the result, we pass the following Order:

Application fails and the same is hereby rejected.