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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 5011/2025, CM APPL. 23048/2025 & CM APPL. 23049/2025

VINEET CHAUDHARYPetitioner
Through: Mr. Alakh Alok Srivastava and
Mr. Rishabh Bafna, Advs.

versus

UNION OF INDIA AND OTHERSRespondents
Through: Mr. Anil Kumar Saxena, SPC
and Mr. Rajendra Rawat GP with Major
Anish Murlidhar, Army

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE AJAY DIGPAUL

% **ORDER**
25.04.2025

CM APPL. 23048/2025 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The petitioner seeks to be recruited as Havildar (Education) in the Indian Army.
4. The grievance of the petitioner is that, from 2017 to 2025, the



Army did not advertise for any recruitment to the post of Havildar (Education) and that, during this period, the petitioner has been rendered overage for appointment to that post.

5. In 2025, the Army issued a notification for recruitment to the post of Havildar (Education).

6. The petitioner's case is that, as there was no recruitment to the post of Havildar (Education) for eight years, the petitioner should be given age relaxation and should be permitted to participate in the selection following the notification issued in 2025.

7. There is, therefore, no dispute about the fact that the petitioner does not satisfy the age requirement as stipulated in the notification issued in 2025.

8. We have heard Mr. Alakh Alok Srivastava, learned Counsel for the petitioner.

9. Mr. Srivastava places reliance on the judgments rendered by Coordinate Bench of this Court on 14 March 2023 in **Nitish Kumar v UOI**¹ and on 6 April 2023 in **Sant Ram Patel v CRPF**².

10. We have seen the said decisions.

11. We find that, in the said decisions, a Coordinate Bench of this

¹ WP(C) 2977/2023

² WP(C) 4185/2023



Court has directed the respondents to issue a corrigendum to the advertisement for recruitment to the concerned posts and, in the corrigendum, to relax the age stipulation contained in the advertisement.

12. In our view, and with greatest respect to the coordinate Bench, this is a somewhat drastic relief, as it directs the respondent to modify their recruitment advertisement.

13. It is obvious that such an order can be passed, if at all, only in rare and exceptional circumstances.

14. It is a settled principle that it is open to the executive to keep post unfilled, so long as the decision is not vitiated by arbitrariness or *mala fides*.

15. We are also unaware of any other decision in which there had been a direction to relax the age requirement in the advertisement merely because there were no recruitments for a period of time.

16. However, on the perusal of the decisions in **Nitish Kumar** and **Sant Ram Patel**, we find that they turn on their own peculiar facts.

17. In **Nitish Kumar**, there were two recruitments which were initiated during the “gap period”, and were discontinued after they were started.

18. This was one of the factors which weighed with the Division



Bench in holding that, by discontinuing the recruitments which had been commenced, candidates had been prejudiced.

19. In **Sant Ram Patel**, there was a specific assertion before the High Court, noted in para 6 of the judgment, to the effect that, during the period for which no recruitments had taken place, 8000 to 9000 vacancies of the concerned post had arisen.

20. We note that, in the present case, there is no averment that, during the years 2017-2025, any vacancies had arisen against which no recruitment had taken place.

21. It is also not possible for us to arrive even at a *prima facie* finding regarding the justification for not holding recruitment to the post of Havildar (Education) from 2017 to 2025, without hearing the respondents and allowing them to place their response on record.

22. In that view of the matter, though we are of the opinion that the petition deserves issuance of notice, we are not inclined to grant any interim relief by allowing the petitioner to participate in the selection, till this Court takes a view regarding the aspect of age relaxation.

23. In the circumstances, issue notice in the writ petition to show cause as to why rule *nisi* be not issued. Issue notice in CM 23049/2025 as well.

24. Notice is accepted on behalf of the respondents by Mr. Anil Saxena, learned SPC, instructed by Major Anish Murlidhar.



25. Counter affidavit/reply, if any, be filed within four weeks with advance copy to learned Counsel for the petitioner, who may file rejoinder thereto, if any, within four weeks thereof.

26. Re-notify on 25 September 2025.

27. We make it clear that we have not issued any interim directions in the matter.

C.HARI SHANKAR, J.

AJAY DIGPAUL, J.

APRIL 25, 2025/an

Click here to check corrigendum, if any