A RICHA MISHRA

v.

STATE OF CHHATTISGARH AND ORS.

(Civil Appeal No. 274 of 2016)

B FEBRUARY 08, 2016

**[A.K. SIKRI AND ABHAY MANOHAR SAPRE, JJ.]**

*Service law:*

*Madhya Pradesh Civil Services (Special Provision for* C *Appointment of Women) Rules, 1997 – r. 4 – Chhattisgarh Police Executive (Gazetted) Service Recruitment and Promotion Rules, 2000 – r. 8 – Conditions of eligibility for direct recruitment – Chhattisgarh Police Executive (Gazetted) Service Recruitment and Promotion Rules, 2005 – State Services Examination Rules, 2003 – r. 5 –* D *Appointment – Post of Deputy Superintendent of Police (Dy.S.P.) – Appellant-Excise Sub Inspector participated in the selection process and qualified at each stage of the examination process – However, name not included in the list of successful candidates as she had already crossed the age limit of 25 years – Writ petition by the appellant on the ground that she was entitled to the benefit of age* E *relaxation as per r. 8 of the 2000 Rules, on account of being Government Servant – Dismissal of writ petition holding that she entered the Government job after the cut-off date and as such was not a government employee on the relevant date – Thereafter, writ appeal claiming benefit of age relaxation u/r. 4 of the 1997 Rules* F *wherein relaxation of ten years is available to women candidates in addition to other relaxation in age – Writ appeal also dismissed holding that r. 8 of 2000 Rules would prevail upon 1997 Rules – On appeal, held: Recruitment was rightly undertaken under Rules, 2000 – Appellant entitled to age relaxation in upper age limit by 10 years as provided to women candidates in r. 4 of 1997 Rules read with* G *Examination Rules, 2003, notwithstanding the fact that Rules, 2000 do not contain any provision for relaxation qua women candidates – Rules 1997 are specific Rules, and r. 4 are specially meant to give benefit of age relaxation to women in public service and post in connection with the affairs of the State – Examination Rules, 2003 which specifically contain a provision for applicability of Rules,* H

*1997 would be applicable for the examination – Thus, appellant eligible to be considered for the post of Dy.S.P. – Issuance of direction to respondents to appoint appellant as Dy.S.P. w.e.f. the date her juniors in the merit list were appointed.* A

**Allowing the appeal, the Court.**

**HELD: 1.1 The process of selection started before Chhattisgarh Police Executive (Gazetted) Service Recruitment and Promotion Rules, 2005 were promulgated with the requisitions dated September 27, 2004 and March 26, 2005 sent by the State Government to the CPSE. At that time, Rules, 2000 were in vogue. For this reason, even in the requisition it was mentioned that appointments are to be made under Chhattisgarh Police Executive (Gazetted) Service Recruitment and Promotion Rules, 2000. Further, it is also an admitted fact that the vacancies in-question which were to be filled were for the period prior to 2005. Such vacancies needed to be filled in as per those Rules, i.e. Rules, 2000. [Para 19][331-C-E]** B C D

**1.2 The State sent the requisition specifically mentioning that the recruitment has to be under Rules, 2000. This was so provided even in the advertisement. The appellant never challenged the advertisement and contended that after the promulgation of Rules, 2005 the recruitment should have been under Rules, 2005 and not Rules, 2000. Therefore, the appellant is even precluded from arguing that recruitment should have been made under Rules, 2005. Thus, the recruitment was rightly made as per Rules, 2002. [Paras 22, 23] [332-G; 333-A-B]** E

**1.3 Rule 8 of Rules, 2000, which, inter alia, lays down the provision pertaining to upper and lower age of the candidates, does not make any specific provision for relaxation of age in respect of women candidates. Note (2) appended to Rule 8 provides that in no other case, age limit will be relaxed. Madhya Pradesh Civil Services (Special Provision for Appointment of Women) Rules, 1997 read with State Services Examination Rules, 2003 would get attracted and as these Rules make a specific provision for providing of age relaxation upto ten years that is to be given to women candidates. Rules, 1997 are specific Rules, specially meant to give benefit of age relaxation to women in public service and post in connection with the affairs of the State.** F G H

A These Rules are statutory in nature framed under proviso to Article 309 of the Constitution of India. Such a special provision is made in favour of females in consonance with the Constitutional spirit contained in Article 15(3). The salutary purpose and objective behind promulgating Rules, 1997 is manifest and can be clearly discerned. It is to encourage women, hitherto known as weaker section, to become working women, by taking up different vocations, including public employment. It would naturally lead to empowerment of women, which is the need of the hour. Empowerment of women is perceived as equipping them to be economically independent, self-reliant, with positive esteem to enable them to face any situation and they should be able to participate in the development activities. [Para 25, 26][333-G-H][334-A-D; 335-E]

1.4 When such affirmative actions are taken by lawmaker, in the form of subordinate legislation, they need to be enforced appropriately so that the purpose that is intended is suitably achieved. Seen in this context, Rule 4 of Rules, 1997 is to be interpreted to have universal application when it comes to women candidates seeking appointment in public service and post in connection with the affairs of the State of Chhattisgarh. After all, that is the primary purpose behind enacting the said Rule having statutory character. [Para 27] [335-F-G]

1.5 The competitive examination for recruitment to the post of Dy.S.P. was conducted under the State Services Examination Rules, 2003. Rule 5 of the said Rules deals with eligibility conditions. Apart from prescribing nationality, minimum educational qualification etc., it specifically lays down provision relating to age of the candidates. After prescribing minimum and maximum age limits as eligibility condition for appearing in the examinations, proviso to this provision of age empowers the State Government to vary the lower and upper age limits for any of the services included in these Rules looking to the exigencies of services. This Rule also makes provision for relaxation in the upper age limit in certain cases. For women candidates, a provision is specifically made providing that as per Rules, 1997, 10 years age relaxation would be given to women candidates. It can, therefore, be clearly inferred that incorporation in the manner aforesaid Rules, 1997 were made applicable for the examination

**in question and in this way the lacuna in Rules, 2000 also got filled up. It would not be too much presumptuous to say that omission of Rules, 1997 in Rule 8 of Rules, 2000 was merely accidental and it was not a case of casus omissus. Because of this reason, said omission was also rectified while enacting Rules, 2005 by making a specific provision in Rule 8(f) of Rules, 2005. [Pa a 29, 30] [337-A-F]**

**1.6 On interpretation of subordinate legislation salutary aim whereof is to achieve social purpose and consequently social justice. When all the said Rules are seen in juxtaposition and in conjunction with each other, intention of rule making authority becomes apparent and is clearly ascertained. The intention of the rule making authorities had always been to give benefit of relaxation in age to women candidates. That, represents the true intention. Otherwise the very purpose of such Rules is defeated. The rule making authority has manifest its intention by removing the ambiguity and providing a specific provision even in Rules, 2005 which is by way of abundant caution so that such kinds of disputes or situations are eliminated. [Para 30, 31] [337-G; 341-F-G]**

**1.7 Appellant was entitled to age relaxation as per Rule 4 of Rules, 1997 read with Examination Rules, 2003. She was, therefore, eligible to be considered for the post of Dy.S.P. The direction is issued to the respondents to appoint the appellant as Dy.S.P. w.e.f. the date her juniors in the merit list were appointed. Her seniority and pay would be fixed on that basis. [Para 32] [341-H; 342-B]**

*Y.V. Rangaiah and Others v. J. Shreenivasa Rao* **(1983) 3 SCC 284;** *B.L. Gupta and Another v. M.C.D.* **(1998) 9 SCC 223;** *P. Ganeshwar Rao and Others v. State of Andhra Pradesh and Others* **1988 (Supp) SCC 740:1988 Suppl. SCR 805;** *Rajasthan Public Service Commission v. Keilla Kumar Palliwal and another* **(2007) 10 SCC 260: 2007 (5) SCR 1131;** *State of Punjab v. Arun Kumar Aggarwal* **(2007) 10 SCC 402: 2007 (6) SCR 8;** *Shailesh Dhairyawan v. Mohan Balkrishna Lulla* **2015 (11) SCALE 684;** *Badshah v. Sou. Urmila Badshah Godse and Anr.* **(2014) 1 SCC 188:2013 (10) SCR 259 – Referred to.**

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**Case Law Reference**

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| **(1983) 3 SCC 284** | **Referred to.** | **Para 19** |
| **(1998) 9 SCC 223** | **Referred to.** | **Para 19** |
| **1988 Suppl. SCR 805** | **Referred to.** | **Para 19** |
| B **2007 (5) SCR 1131** | **Referred to.** | **Para 20** |
| **2007 (6) SCR 8** | **Referred to.** | **Para 21** |
| **2015 (11) SCALE 684** | **Referred to.** | **Para 28** |
| **2013 (10) SCR 259** | **Referred to.** | **Para 30** |

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*Per Supre J: (Supplementing):*

**HELD: 1.1 The appellant is entitled to claim age relaxation as provided to women candidates in Rule 4 of Madhya Pradesh Civil Services (Special Provision for appointment of women) Rules, 1997 read with proviso to clause (xiv) of Rule 5 of the** D **States Services Examination Rules, which has application to the case of the appellant while considering her case for the post of Deputy Superintendent of Police. [Para 3] [342-E]**

**1.2 The very object of promulgating the Rules of 1997 and especially Rule 4 is to encourage women's participation in various** E **State services. Denial of such benefit to a woman candidate while considering her case for the post in State services would make the Rule wholly nugatory. Such can never be the intention of the Legislature being against the spirit of Articles 15 and 16 of the Constitution of India. [Para 4] [342-F-G]**

F CIVIL APPELLATE JURISDICTION: Civil Appeal No. 274 of 2016

From the Judgment and Order dated 10.03.2010 of the High Court of Chhattisgarh at Bilaspur in Writ Appeal No. 358 of 2009

G Ajit Kumar Sinha, T. G. Narayanan Nair, K. N. Madhusoodhanan for the Appellant.

Apoorv Kurup, Aniruddha P. Mayee, A. C. Boxipatro, Dr. Harsh Pathak, Farrukh Rashee, Siddhartha Shukla, Mohit Choubey for the Respondents.

H The two Judgments of the Court were delivered by

**A.K. SIKRI, J.** 1. The issue which arises for consideration in the present appeal pertains to the appointment for the post of Deputy Superintendent of Police (hereinafter referred to as the 'Dy.S.P.'). Though, the appellant herein had participated in the selection process and she not only qualified at each stage of the examination process, her name was still not included in the list of successful candidates for the said post. The reason given was that as per the Chhattisgarh Police Executive (Gazetted) Service Recruitment and Promotion Rules, 2000 (hereinafter referred to as Rules, 2000), upper age limit for appointment to the post of Dy.S.P. was 25 years and she had already crossed the said age limit, and therefore, she was rendered ineligible for the post in question.

2.This decision of the respondents in not appointing the appellant as Dy. S.P. was challenged by the appellant by filing the writ petition in the High Court of Chhattisgarh on the ground that she was entitled to the benefit of age relaxation on account of being Government Servant. It may be noted at this juncture that she was appointed as Excise Sub Inspector, Bilaspur after clearing the CG combined Competitive Examination, 2003 (which is also called State Services Examination, 2003). She, thus, claimed that she was a Government Servant and on that ground she claimed age relaxation as per Rule 8 of the Rules, 2000. However, her writ petition was dismissed by the learned single Judge holding that she entered the Government job vide appointment order dated 21.04.2006 which was after the cut-off date as 01.01.2006 for the post of Dy.S.P. and, therefore, was not entitled to the benefit of age relaxation. The appellant filed the writ appeal before the Division Bench and claimed benefit of age relaxation under Madhya Pradesh Civil Services (Special Provision for appointment of women) Rules, 1997 (hereinafter referred to as the 'Rules, 1997'). However, even on this ground she has not succeeded as the High Court vide impugned judgment dated March 10, 2010 has dismissed the writ appeal.

3. We would like to point out at this stage that number of writ petitions were filed in the High Court which were taken up by the learned single Judge analogously and decided by the common judgment dated November 16, 2009. Whereas some writ petitions including that of the appellant herein was dismissed and some other writ petitions were allowed by the learned single Judge holding that in their cases they were entitled to age relaxation and, therefore, select list should have been prepared on

A the basis of merit treating those persons to be within age limit. The Government had filed writ appeals challenging outcome of such writ petitions in favour of those candidates. These appeals were also taken up by the Division Bench along with the appeal of the appellant herein. The High Court has allowed those appeals holding that even such persons were not entitled to the benefit of age relaxation. We make it clear that B we shall be eschewing the discussion in respect of those cases which obviously is not necessary.

4. Coming to the case of the appellant herein, seminal facts which need to be recorded for deciding the controversy are recapitulated below:

C As mentioned above, the appellant herein was appointed as Excise Sub Inspector, Bilaspur vide appointment order dated 24.01.2006 and she joined the said post on 07.02.2006. On 27.09.2004, the State Government sent requisition to Chhattisgarh Public Service Commission (hereinafter referred to as the 'CPSC') for filling up of various vacancies which included vacancies to the post of Dy.S.P. as well. This was D followed by fresh requisition dated 22.03.2005. In this requisition, the State Government also mentioned that the vacancies shall be filled up in accordance with Rules, 2000. Acting on this requisition, CPSC issued Advertisement dated 26.08.2005. Relevant to state that after the requisition by the State Government sent on 22.03.2005 and before the E issuance of Advertisement on 26.08.2005, Chhattisgarh Police Executive (Gazetted) Service Recruitment and Promotion Rules, 2005 (hereinafter referred to as the 'Rules, 2005') came into force which were published in the Official Gazette on 28.06.2005. The effect of these Rules would be discussed at the relevant stage.

F 5. Appellant herein had applied for the post of Dy.S.P. and appeared in the preliminary examination which she duly qualified. On that basis, the appellant filled the form for appearing in main examination. In this form, she stated that she was entitled to relaxation of ten years in upper age limit being a woman. Such a relaxation was claimed on the basis of the Rules, 1997 which were brought into force w.e.f. 07.02.1997. G The Rule 4 thereof provides for such age relaxation. For our purposes, Rule 2 and Rule 4 are relevant and are reproduced below:

> "2. **Scope and application** – Without prejudice to the generality of the provisions contained in any service Rules, these rules shall apply to all persons to public service and posts in connection with H the affairs of the State.

4. **Age Relaxation.** - There shall be age relaxation of ten years for women candidates for direct appointment in all posts in the services under the State in addition to the upper age limit prescribed in any service rules or executive instructions." A

6. The appellant was allowed to participate in the main examination and she qualified that as well. Accordingly, she was called for interview on 12.04.2007. Final results were declared thereafter. She obtained 54th position in the merit list. Thereafter, CPSC prepared the list of selected candidates and sent that list to the Government for effecting appointments as per that list. However, name of appellant was not recommended for Dy.S.P. though two persons who were below in merit, namely, Tarkeshwar Patel and Ranu Sahu were recommended. They had obtained 59th and 60th position respectively, in the merit list. Appellant felt aggrieved thereby and made a representation to this effect. However, her representation did not elicit any positive response even when it was followed by a reminder dated 20.05.2007. This apathy of the respondent forced the appellant to approach the High Court in the form of writ petition filed under Article 226 of the Constitution of India. Her plea was that she had not been given the benefit of age relaxation even when she was an existing government servant as she was working in the Excise Department of the State of Chhattisgarh and being a Government Servant, she was entitled to age relaxation for eight years. This plea was rejected by the learned single Judge recording that she has joined the government service after the cut-off date and, therefore, she was not a government employee on the relevant date. B C D E

7. The appellant challenged the aforesaid order of the learned single Judge by filing the writ appeal. In this writ appeal, she did not pursue her case for age relaxation upto eight years on the ground that she was a Government Servant. Instead she relied upon Rule 4 of Rules 1997 wherein relaxation of ten years is available to women candidates in addition to other relaxation in age. The Division Bench has held that benefit of Rule 4 of Rules 1997 shall not enure to her benefit and the entire discussion in support of this conclusion is contained in paras 52 and 53 of the impugned judgment which are reproduced hereunder in entirety: F G

"52. We are unable to accept this argument. The advertisement clearly mentions that for the post of Dy.S.P., minimum and maximum age limit would be 20 and 25 years clearly spelling out H

A the terms and conditions for relaxation of age criteria.

53. From bare reading of Rule 8 of the Rules, 2000, it is clear that age relaxation under the Rules, 1997 is not applicable for recruitment on the post of Dy.S.P. From advertisement also, it is evident that no relaxation in age for recruitment for the post of
B Dy.S.P. was available to the woman candidates whereas age relaxation under the aforesaid rules have been made applicable in other categories. Since there was no challenge by the appellant to the applicability of the Rules, 2000, she cannot be permitted to assail the impugned judgment on the ground that she was entitled for age relaxation as provided under Rule 4 of the Rules, 1997."
C

8. As is clear from the aforesaid reasoning given by the High Court, Rule 8 of Rules, 2000 would prevail upon Rules, 1997 and, therefore, Rules, 1997 are not applicable for recruitment to the post of Dy.S.P. The High Court has also been persuaded by the stipulation contained in the advertisement as per which outer age limit for the post
D of Dy.S.P. was 25 years. The whole controversy, therefore, revolves around interplay of Rules, 1997 and Rules 2000 as well as other rules. That was precisely the focus of arguments of the learned counsel for the parties.

9. We have already reproduced provisions of Rules 2 and 4 of
E Rules, 1997. As can be discerned from bare reading of Rule 4 thereof, it provides for relaxation of 10 years for women candidates for direct appointment 'in all posts' in the services under the State and this relaxation is 'in addition' to the upper age limit prescribed in any service Rules or adjective instructions. Rule 2 of these rules makes it clear that Rules,
F 1997 shall apply to all persons to public service and post in connection with the affairs of the State, without prejudice to the generality of the provisions contained in any service rules.

10. Insofar as Rules, 2000 are concerned, these are the Rules which pertain to recruitment and promotion to various categories of post
G in State Police Executive (Gazetted) Services. The post of Dy. S.P. is admittedly covered by these Rules and, therefore, eligibility conditions for the aforesaid post and the method of recruitment etc. as contained in these Rules which govern the post of Dy. S.P. as well. Since, we are concerned herewith the conditions of eligibility for direct recruitment, it is Rule 8 of the said Rules which is relevant. This Rule provides for
H lower and upper age limit as well. The relevant portion of the provision

relating to age, as contained in the said Rule, is reproduced below, thereby omitting the provisions pertaining to other conditions of eligibility with which are are not concerned:- A

"8. Conditions of eligibility for direct recruitment.— In order to be eligible for competing in the examination a candidate shall have to be satisfy following conditions, namely:- B

(1) Age.—(a) He must have attained the age as specified in column 4 of Schedule III and not attained the age specified in column 5 of the said schedule, on the first day of January next following the date of commencement of the examination.

(b) The upper age limit shall be relaxable upto a maximum of five years if a candidate belonging to Scheduled Caste, Scheduled Tribe or Other Backward Class. C

(c) The upper age limit shall also be relaxable in respect of candidates who are or have been employees of the Madhya Pradesh Government, to the extend and subject to the conditions specified below:- D

(i) A candidate who is a permanent Government Servant should not be more than 33 years of age.

(ii) A candidate holding a post temporarily and applying for another post should not be or more than 33 years of age. This concession shall also be admissible to the contingency paid employees, work-charged employees and employees working in the Project Implementation Committee. E

(iii) A candidate who is a retrenched Government Servant shall be allowed to deduct from his age the period of all temporary service previously rendered by him upto a maximum of 7 years even if it represents more than one spell provided that the resultant age does not exceed the upper age limit by three years. F

***Explanation.***— The term 'retrenched Government Servant' denotes a person who was in Government Servant of this State or of any of the constituent units for a continuous period of not less than six months and who was discharged because of reduction in the number of employees not more than three years prior to the date of his registration in the Employment Exchange or of application made otherwise for employment in the Government G H

A Service.

(d) A candidate who is an ex-serviceman shall be allowed to deduct from his age the period of all defense services previously rendered by him provided that the resultant age does not exceed the upper age limit by more than three years.

B ***Explanation.***— The terms 'ex-serviceman' denotes a person who belongs to any of the following categories and who was employed under the Government of India for a continuous period of not less than six months and who was retrenched or declared surplus a s a result of the recommendation of Economy Unit or due to normal C reduction in the number of employees not more than three years from the date of his registration and any employment exchange or of application made other wise for employment in Government Service:-

(i) Ex-serviceman released under mustering out concession;

D (ii) Ex-serviceman recruited for the second time and discharge on-

(a) completion of short term engagement;

(b) fulfilling the conditions of enrollment;

E (iii) Officers (Military and Civil) discharged on completion of their contract (including Short Service regular commissioned officers);

(iv) Officers discharged after working for more than six months continuously against leave vacancies.

(e) General upper age limit shall be relaxable upto five years in F respect of widow, destitute or divorced woman candidates.

(f) Upper age limit shall also be relaxable upto two years in respect of green card holder candidates under the Family Welfare Programme.

G (g) The General upper age limit shall be relaxable upto five years in respect of awarded superior caste partners of a couple under the inter caste marriage inceptive Programme of the Tribal, Scheduled Castes, and Backward Classes Welfare Department.

(h) The upper age limit shall also be relax able upto five years in H respect of candidates holding 'Vikram Award'

(i) The upper age limit shall be relax able upto a maximum of 33 years of age in respect of candidates (who are employees) of Madhya Pradesh State Corporation/Boards. A

(j) The upper age limit shall be relaxed in case of voluntary Home-Guards for the period of service rendered by them subject to the limit of 8 years, but in no case their age should exceed 3 years. B

**Note** (1) Candidates who are admitted to the selection under the age concession mentioned in sub-clause(i) and (ii) of clause (c) and clause(i) above shall not be eligible for appointment if after submitting the application they resign from the service either before or after the selection. They will however continue to be eligible if they are retrenched from the service or post after submitting the application. C

**Note** (2) In no other case age limits will be relaxed.

**Note** (3) Department candidates must obtain previous permission of their appointing authority to appear for the selection." D

11. Column (4) of Schedule III prescribes minimum age limit of 20 years and maximum age limit of 25 years for the post of Dy.S.P. (HQ, Training, JNPA, PTC, PTS, Security, Lines etc.). A reading of the aforesaid provision, in its entirety, would suggest that relaxation in age of different periods is provided to the candidates belonging to the following categories: E

(i) Scheduled Castes, Scheduled Tribes or Other Backward Classes.

(ii) Employees of the Madhya Pradesh Government holding permanent post or temporary post or retrenched Government Servant. F

(iii) Ex-Serviceman

(iv) Widow/destitute or divorced women candidates G

(v) Green card holder candidates under the Family Welfare Programme

(vi) Awarded superior caste partners of a couple under the inter-caste marriage inceptive programme of the Tribal, Scheduled Castes and Backward Classes Welfare Department. H

A (vii) Those candidates who are holding 'Vikram Award'

(viii) Candidates who are employees of Madhya Pradesh State Corporation/Boards.

(ix) Candidates who are voluntary Home-Guards

B 12. Admittedly, case of the appellant does not fall in any of the aforementioned categories wherein age relaxation is provided. If one has to go by Rule 8 in isolation, having regard to Note (2), age limit in the case of appellant cannot be relaxed. In this context, however, the question arises as to whether Rules, 1997, which contain special provision for appointment of women, would still be applicable having regard to the C fact that the appellant is a woman candidate. Whereas, the contention of Mr. Ajit Kumar Sinha, learned senior counsel appearing for the appellant is that since there are special Rules meant for women candidates in respect of all posts in the State, this special provision is applicable. On the other hand, contention of the learned counsel for the respondents D is that having regard to Rule 8(1) of Rules, 2000, which provides for provision relating to 'age' specifically for the post in-question, it is this Rule which would determine the eligibility of candidates insofar as prescription of 'age' therein is concerned.

13. We may add here that Mr. Ajit Kumar Sinha, learned senior E counsel for the appellant had also drawn our attention to States Service Examination Rules, dated June 9th, 2003 (Examination Rules, 2003). He submitted that the examination in-question was conducted as per those Rules. These Rules are applicable to the post of Dy.S.P. as well and Rule 5 thereof deals with eligibility conditions. Apart from prescribing nationality, minimum educational qualification etc., It specifically lays F down provision relating to age of the candidates. Though, the minimum of age of 21 years and maximum of age 30 years as on first January next following the date of commencement of the competitive examination is stipulated therein, proviso to this provision of age empowers the State Government to vary the lower and upper age limits for any of the services G included in these Rules looking to the exigencies of services. This Rule also makes provision for relaxation in the upper age limit in certain cases. What is relevant for us is that for women candidates, a provision is specifically made providing that as per Rules, 1997, 10 years age relaxation would be given to women candidates, as is clear from the said provision which reads as under:

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"(xiv) up to maximum 10 years: for women candidate: As per Rajpatra (Asadharan) dated 7.2.1997, Published rule C.G. Civil Service (Special provision of appointment for women) Rule 1997, 10 years age relaxation will be given to women candidate." A

Taking advantage of this provision, Mr. Sinha argued that since examinations were conducted under the aforesaid Rules, in view of the said specific provision, the appellant was entitled to age relaxation, as per Rules, 1997. B

14. Another submission of Mr. Ajit Kumar Sinha was that in any case it was not permissible for the respondents to make recruitment in-question on the basis of Rules, 2000 in view of the fact that in the State of Chhattisgarh, Chhattisgarh Police Executive (Gazetted) Recruitment and Promotion Rules, 2005 were promulgated vide Notification dated June 28, 2005 issued by the Governor of the State in exercise of proviso to Article 309 of the Constitution of India and, these Rules specifically repealed Rules, 2000. He pointed out that in these Rules specific provision has been made under Rule 8(f) for giving relaxation upto 10 years to women candidates, in terms of Rules, 1997. The said provision is as follows: C D

"8(f) The upper age limit for women candidates shall be relaxable upto 10 years as per Chhattisgarh Civil Service (special provision for appointment of women) Rules, 1997. this relaxation shall be in addition to the other age relaxation." E

15. He submitted that in the instant case, advertisement for the post in-question, in which the appellant participated, was issued on August 26, 2005, i.e. after the promulgation of Rules, 2005 which became effective from June 28, 2005 and, therefore, it is Rules, 2005 which were applicable and as these Rules contain specific provision for relaxation for women candidates on the applicability of Rules, 1997. F

16. Learned counsel for the respondents countered the aforesaid submissions by arguing that the first requisition in the instant case was sent by the State on September 27, 2004 which was followed by 2nd requisition on March 23, 2005. These requisitions were in respect of post which had fallen vacant at that time and as on the dates of these requisitions, Rules 2000 were applicable. It is for this reason that even in the requisition it was specifically mentioned that post in-question shall be filled up in accordance with Rules, 2000. The learned counsel, G H

A therefore, argued that since the process was initiated under Rules, 2000, it was clearly saved in Rules, 2005 as is evident from proviso to Rule 27 dealing with repeal and saving. It reads as under:

"27. Repeal and Saving :

B Provided that any order made or action taken under rules so repealed, shall be deemed to have been made or taken under the corresponding provisions of these rules."

17. It was argued that precisely for this reason even in the advertisement, it was mentioned that the post will be filled up as per Rules, 2000. It was further contended that this advertisement was never C challenged by the appellant and, therefore, recruitment made under Rules, 2000 in respect of vacancies which were for the period when Rules, 2000 were applicable, could not be faulted with. In this very line of submission, it was further argued that once it is accepted that Rules, 2000 govern the field, admittedly as per these Rules there is no provision D for relaxation for women candidates and, therefore, High Court rightly held that the appellant was not entitled to any such age relaxation and was, therefore, suffered from age bar.

18. From the arguments noted above, the questions that fall for consideration and need the answers are the following:

E (a) Whether the recruitment to the post of Dy.S.P. was governed by Rules, 2005 or it was rightly done under the Rules, 2000?

It may be pointed out at this stage itself that if Rules, 2005 are applicable then the outcome of the case would clearly be in favour of the appellant inasmuch as rules specifically provided for F relaxation upto 10 years for women candidates. However, if answer to the aforesaid question is that recruitment process was rightly carried under Rules, 2000 then further question would arise for consideration, viz.:

(b) Notwithstanding the fact that Rules, 2000 do not contain any G provision for relaxation *qua* women candidates, whether a relaxation would still be available to women candidates under Rules, 1997?

There are two incidental facets of question no. (b), which are as follows:

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(i) Whether Rules, 1997 are applicable, which make special provision for relaxation in upper age limit by 10 years in respect of women candidates? A

(ii) Whether Examination Rules, 2003 which specifically contain a provision for applicability of Rules, 1997 would be treated as applicable for the examination in-question? B

19. **Question No. 1**

The High Court held that first and second requisitions to commence recruitment process against the vacant seats to the post of Dy.S.P. was made when Rules, 2000 were in force. Therefore, recruitment was rightly undertaken under Rules, 2000. C

The admitted facts are that the process of selection started before Rules, 2005 were promulgated with the requisitions dated September 27, 2004 and March 26, 2005 sent by the State Government to the CPSE. At that time, Rules, 2000 were in vogue. For this reason, even in the requisition it was mentioned that appointments are to be made under D Rules, 2000. Further, it is also an admitted fact that the vacancies in-question which were to be filled were for the period prior to 2005. Such vacancies needed to be filled in as per those Rules, i.e. Rules, 2000. This is patent legal position which can be discerned from ***Y.V. Rangaiah and Others*** v. *J. Shreenivasa Rao*[1]. As per the facts of that case a E panel had to be prepared every year of list of approved candidates for making appointments to the grade of Sub-Registrar Grade-II by transfer according to the old rules. However, the panel was not prepared in the year 1976 and the petitioners were deprived of their right of being considered for promotion. In the meanwhile, new rules came into force. In this factual background, it was held that the vacancies which occurred F prior to the amended rules would be governed by the old rules and not by the amended rules. The judgment in the case of ***B.L. Gupta and Another*** v. ***M.C.D.***[2] also summarises the legal position in this behalf. The judgment in ***P. Ganeshwar Rao and Others*** v. ***State of Andhra Pradesh and Others***[3] is also to the same effect. Para 9 of the judgment G laying down the aforesaid proposition of law, is reproduced below:

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[1] (1983) 3 SCC 284

[2] (1998) 9 SCC 223

[3] 1988 (Supp) SCC 740 H

A "9. When the statutory rules had been frame din 1978, the vacancies had to be filled only according to the said Rules. The Rules of 1995 have been held to be prospective by the High Court and in our opinion this was the correct conclusion. This being so, the question which arises is whether the vacancies which had arisen earlier than 1995 can be filled as per the 1995 Rules. Our attention B has been drawn by Mr. Mehta to a decision of this Court in the case of ***N.T. Devin Katti*** **v.** ***Karnataka Public Service Commission*** **[(1990) 3 SCC 157].** In that case after referring to the earlier decisions in the cases of ***Y.V. Rangaiah***[1]**,** ***P. Ganeshwar Rao***[3]**,** and ***A.A. Calton*** v. ***Director of Education*** C **[(1983) 3 SCC 33]** it was held by this Court that the vacancies which had occurred prior to the amendment of the Rules would be governed by the old Rules and not by the amended Rules."

20. No doubt, under certain exceptional circumstances, Government can take a conscience decisions not to fill the vacancies D under the old Rules and, thus, there can be departure of the aforesaid general rule in exceptional cases. This legal precept was recognised in the case of ***Rajasthan Public Service Commission*** v. ***Keilla Kumar Palliwal and another***[4] in the following words:

"There is no quarrel over the proposition of law that normal rule is E that the vacancy prior to the new Rules would be governed by the old Rules and not by the new Rules. However, in the present case, we have already held that the Government has taken conscious decision not to fill the vacancy under the old Rules and that such decision has been validly taken keeping in view the facts and circumstances of the cases."

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21.This position is reaffirmed in ***State of Punjab*** v. ***Arun Kumar Aggarwal***[5].

22. However, as far as present case is concerned, the State sent the requisition specifically mentioning that the recruitment has to be under G Rules, 2000. This was so provided even in the advertisement. The appellant never challenged the advertisement and contended that after the promulgation of Rules, 2005 the recruitment should have been under

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[4] (2007) 10 SCC 260

H [5] (2007) 10 SCC 402

Rules, 2005 and not Rules, 2000. Therefore, the appellant is even precluded from arguing that recruitment should have been made under Rules, 2005.

23. Thus, we answer question no. (i) by holding that recruitment was rightly made as per Rules, 2000.

24. **Question No. (ii)** – As noted above, Rue 8 of Rules 2000, which, inter alia, deals with age criteria that has to be fulfilled by the candidate, does not make any provision for age relaxation insofar as women candidates are concerned. On the other hand, we have Rules, 1997 which also have statutory force as they are also framed under proviso to Article 309 of the Constitution of India. These Rules contain special provisions for appointment of women candidates and are made applicable to the public service and posts in connection with the affairs of the State. The question is as to whether these Rules would not be applicable in those cases where recruitment is made under Rules, 2000 which not only contains specific provision for age relaxation but does not make any provision for age relaxation in favour of women candidates and on the contrary categorically provides under Note (2) that 'in no other case age limits will be relaxed'. Significantly, this omission in Rules, 2000 has taken note of when Rules, 2005 were framed and, therefore, the situation was remedied in Rule 8 of Rules, 2005 by specifically providing under sub-rule (f) of Rule 8 that relaxation in the upper age limit would also be available to women candidates as per Rules, 1997 as noted above. However, we have already come to a conclusion that Rules, 2005 are not applicable in respect of selection in question. Therefore, position will have to be considered keeping in view Rules, 2000 in juxtaposition with Rules, 1997 and other relevant provisions which were applicable as on that date.

25. No doubt, Rule 8 of Rules, 2000, which, *inter alia*, lays down the provision pertaining to upper and lower age of the candidates, does not make any specific provision for relaxation of age in respect of women candidates. We also are conscious of the fact that Note (2) appended to Rule 8 provides that in no other case, age limit will be relaxed. However, that is not the end of the matter. The legal position is to be examined in conjunction with all other rules which occupy the field and all relevant to determine the issue. We are of the opinion that Rules, 1997 read with State Services Examination Rules, 2003 would get attracted and as these Rules make a specific provision for providing of age relaxation upto ten

A years that is to be given to women candidates, the appellant herein shall be entitled to the said benefit. The reasons for arriving at this finding are explained hereinafter:

26. In the first instance, it is to be borne in mind that Rules, 1997 are specific Rules, specially meant to give benefit of age relaxation to B women in public service and post in connection with the affairs of the State. These Rules are statutory in nature framed under proviso to Article 309 of the Constitution of India. Such a special provision is made in favour of females in consonance with the Constitutional spirit contained in Article 15(3) of the Constitution of India which empowers the State to make any special provision for women and children. The C salutary purpose and objective behind promulgating Rules, 1997 is manifest and can be clearly discerned. It is to encourage women, hitherto known as weaker section, to become working women, by taking up different vocations, including public employment. It would naturally lead to empowerment of women, which is the need of the hour. Women in D this world, and particularly in India, face various kinds of gender disabilities and discriminations. It is notwithstanding the fact that under the Constitution of India, women enjoy a unique status of equality with men. In reality, however, they have yet to go a long way to achieve this Constitutional status. It is now realised that real empowerment would be achieved by women, which would lead to their well-being facilitating E enjoyment of rights guaranteed to them, only if there is an economic empowerment of women as well. Till sometime back, the focus was to achieve better treatment for women and for this reason, the concentration was mainly on the well-being of women. Now the focus is shifted to economic empowerment. Such objectives have gradually evolved or F broadened to include the active role of women when it comes to development as well. No longer the passive recipients of welfare-enhancing help, women are increasingly seen, by men as well as women as active agents of change: the dynamic promoters of social transformation that can alter the lives of both women and men. It is now realised that there is a bidirectional relationship between economic G development and women's empowerment defined as improving the ability of women to access the constituents of development-in particular health, education, earning opportunities, rights, and political participation. This bidirectional relationship is explained by Prof. Amartya Sen by propounding a theory that in one direction, development alone can play a major role in H driving down an equality between men and women; in another direction,

continuing discrimination against women can hinder development. In this scenario, empowerment can accelerate development. From whichever direction the issue is looked into, it provides justification for giving economic empowerment to women. It is, for this purpose, there is much emphasis on women empowerment (as it leads to economic development) by United Nations World Bank and other such Bodies. Interestingly, the 2012 World Development Report (World Bank 2011) adopts a much more nuanced message. While it emphasizes the "business case" for women empowerment, it mainly takes it as given that the equality between women and men is a desirable goal in itself, and policies should aim to achieve that goal. Poverty and lack of opportunity breed inequality between men and women, so that when economic development reduces poverty, the condition of women improves on two counts: first, when poverty is reduced, the condition of everyone, including women, improves, and second, gender inequality declines as poverty declines, so the condition of women improves more than that of men with development. Economic development, however, is not enough to bring about complete equality between men and women. Policy action is still necessary to achieve equality between genders. Such policy action would be unambiguously justified if empowerment of women also stimulates further development, starting a virtuous cycle. Empowerment of women, thus, is perceived as equipping them to be economically independent, self-reliant, with positive esteem to enable them to face any situation and they should be able to participate in the development activities.

27. Keeping in view all the aforesaid and other relevant considerations, when such affirmative actions are taken by lawmaker, in the form of subordinate legislation, they need to be enforced appropriately so that the purpose that is intended is suitably achieved. Seen in this context, Rule 4 of Rules, 1997 is to be interpreted to have universal application when it comes to women candidates seeking appointment in public service and post in connection with the affairs of the State of Chhattisgarh. After all, that is the primary purpose behind enacting the aforesaid Rule having statutory character.

28. In order to gather the intention of the lawmaker, the principle of 'purposive interpretation' is now widely applied. This has been explained in the case of ***Shailesh Dhairyawan*** v. ***Mohan Balkrishna Lulla***[6] in the following words:

[6] 2015 (11) SCALE 684

A "9. The aforesaid two reasons given by me, in addition to the reasons already indicated in the judgment of my learned Brother, would clearly demonstrate that provisions of Section 15(2) of the Act require purposive interpretation so that the aforesaid objective/ purpose of such a provision is achieved thereby. The principle of *'purposive interpretation'* or *'purposive construction'* is based B on the understanding that the Court is supposed to attach that meaning to the provisions which serve the *'purpose'* behind such a provision. The basic approach is to ascertain what is it designed to accomplish? To put it otherwise, by interpretative process the Court is supposed to realise the goal that the legal text is designed C to realise. As *Aharan Barak* puts it:

"Purposive interpretation is based on three components: language, purpose, and discretion. Language shapes the range of semantic possibilities within which the interpreter acts as a linguist. Once the interpreter defines the range, he or she chooses the legal D meaning of the text from among the (express or implied) semantic possibilities. The semantic component thus sets the limits of interpretation by restricting the interpreter to a legal meaning that the text can bear in its (public or private) language."

10. Of the aforesaid three components, namely, language, purpose E and discretion *'of the Court'*, insofar as purposive component is concerned, this is the *ratio juris*, the purpose at the core of the text. This purpose is the values, goals, interests, policies and aims that the text is designed to actualize. It is the function that the text is designed to fulfil.

F 11. We may also emphasize that the statutory interpretation of a provision is never static but is always dynamic. Though literal rule of interpretation, till some time ago, was treated as the *'golden rule'*, it is now the doctrine of purposive interpretation which is predominant, particularly in those cases where literal interpretation may not serve the purpose or may lead to absurdity. If it brings G about an end which is at variance with the purpose of statute, that cannot be countenanced. Not only legal process thinkers such as *Hart* and *Sacks* rejected intentionalism as a grand strategy for statutory interpretation, and in its place they offered purposivism, this principle is now widely applied by the Courts not only in this H country but in many other legal systems as well."

29. Even if any doubt arises about the applicability of Rules, 1997 because of absence of any specific provisions in Rules, 2000, that is taken care of by State Services Examination Rules, 2003. It is not disputed by the respondents that competitive examination for recruitment to the post of Dy.S.P. was conducted under the aforesaid Rules. As already noted above, Rule 5 of the said Rules deals with eligibility conditions. Apart from prescribing nationality, minimum educational qualification etc., it specifically lays down provision relating to age of the candidates. After prescribing minimum and maximum age limits as eligibility condition for appearing in the examinations, proviso to this provision of age empowers the State Government to vary the lower and upper age limits for any of the services included in these Rules looking to the exigencies of services. This Rule also makes provision for relaxation in the upper age limit in certain cases. What is relevant for us is that for women candidates, a provision is specifically made providing that as per Rules, 1997, 10 years age relaxation would be given to women candidates, as is clear from the said provision which reads as under:

> "(xiv) up to maximum 10 years: for women candidate: As per Rajpatra (Asadharan) dated 7.2.1997, Published rule C.G. Civil Service (Special provision of appointment for women) Rule 1997, 10 years age relaxation will be given to women candidate."

30. It can, therefore, be clearly inferred that incorporation in the manner aforesaid Rules, 1997 were made applicable for the examination in question and in this way the lacuna in Rules, 2000 also got filled up. It would not be too much presumptuous to say that omission of Rules, 1997 in Rule 8 of Rules, 2000 was merely accidental and it was not a case of *casus omissus*. Because of this reason, said omission was also rectified while enacting Rules, 2005 by making a specific provision in Rule 8(f) of Rules, 2005. Therefore, the intention of the rule making authorities had always been to give benefit of relaxation in age to women candidates. After all, we are called upon to interpret subordinate legislation salutary aim whereof is to achieve social purpose and consequently social justice. What should be the approach in interpreting such laws is explained in *Badshah* v. *Sou. Urmila Badshah Godse and Anr.*[7] in the following words:

[7] (2014) 1 SCC 188

A "13.3. Thirdly, in such cases, purposive interpretation needs to be given to the provisions of Section 125, Code of Criminal Procedure While dealing with the application of destitute wife or hapless children or parents under this provision, the Court is dealing with the marginalized sections of the society. The purpose is to achieve "social justice" which is the Constitutional vision, enshrined in the B Preamble of the Constitution of India. Preamble to the Constitution of India clearly signals that we have chosen the democratic path under rule of law to achieve the goal of securing for all its citizens, justice, liberty, equality and fraternity. It specifically highlights achieving their social justice. Therefore, it becomes the bounden C duty of the Courts to advance the cause of the social justice. While giving interpretation to a particular provision, the Court is supposed to bridge the gap between the law and society.

14. Of late, in this very direction, it is emphasized that the Courts have to adopt different approaches in "social justice adjudication", D which is also known as "social context adjudication" as mere "adversarial approach" may not be very appropriate. There are number of social justice legislations giving special protection and benefits to vulnerable groups in the society. Prof. Madhava Menon describes it eloquently:

E It is, therefore, respectfully submitted that "social context judging" is essentially the application of equality jurisprudence as evolved by Parliament and the Supreme Court in myriad situations presented before courts where unequal parties are pitted in adversarial proceedings and where courts are called upon to dispense equal justice. Apart from the social-economic inequalities F accentuating the disabilities of the poor in an unequal fight, the adversarial process itself operates to the disadvantage of the weaker party. In such a situation, the judge has to be not only sensitive to the inequalities of parties involved but also positively inclined to the weaker party if the imbalance were not to result in G miscarriage of justice. This result is achieved by what we call social context judging or social justice adjudication.

15. The provision of maintenance would definitely fall in this category which aims at empowering the destitute and achieving social justice or equality and dignity of the individual. While dealing H with cases under this provision, drift in the approach from

"adversarial" litigation to social context adjudication is the need of the hour. A

16. The law regulates relationships between people. It prescribes patterns of behavior. It reflects the values of society. The role of the Court is to understand the purpose of law in society and to help the law achieve its purpose. But the law of a society is a living organism. It is based on a given factual and social reality that is constantly changing. Sometimes change in law precedes societal change and is even intended to stimulate it. In most cases, however, a change in law is the result of a change in social reality. Indeed, when social reality changes, the law must change too. Just as change in social reality is the law of life, responsiveness to change in social reality is the life of the law. It can be said that the history of law is the history of adapting the law to society's changing needs. In both Constitutional and statutory interpretation, the Court is supposed to exercise direction in determining the proper relationship between the subjective and objective purpose of the law. B C D

17. Cardozo acknowledges in his classic

...no system of jus scriptum has been able to escape the need of it", and he elaborates: "It is true that Codes and Statutes do not render the Judge superfluous, nor his work perfunctory and mechanical. There are gaps to be filled. There are hardships and wrongs to be mitigated if not avoided. Interpretation is often spoken of as if it were nothing but the search and the discovery of a meaning which, however, obscure and latent, had none the less a real and ascertainable pre-existence in the legislator's mind. The process is, indeed, that at times, but it is often something more. The ascertainment of intention may be the least of a judge's troubles in ascribing meaning to a stature. E F

Says Gray in his lecture

The fact is that the difficulties of so-called interpretation arise when the legislature has had no meaning at all; when the question which is raised on the statute never occurred to it; when what the judges have to do is, not to determine that the legislature did mean on a point which was present to its mind, but to guess what is would have intended on a point not present to its mind, if the point had been present. G H

A 18. The Court as the interpreter of law is supposed to supply omissions, correct uncertainties, and harmonize results with justice through a method of free decision-"libre recherche sceintifique" i.e. "free Scientific research". We are of the opinion that there is a non-rebuttable presumption that the Legislature while making a provision like Section 125 Code of Criminal Procedure, to fulfill its Constitutional duty in good faith, had always intended to give relief to the woman becoming "wife" under such circumstances. This approach is particularly needed while deciding the issues relating to gender justice. We already have examples of exemplary efforts in this regard. Journey from Shah Bano, AIR 1985 SC 945 to Shabana Bano, AIR 2010 SC 305 guaranteeing maintenance rights to Muslim women is a classical example.

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19. In Rameshchandra Daga v. Rameshwari Daga, AIR 2005 SC 422, the right of another woman in a similar situation was upheld. Here the Court had accepted that Hindu marriages have continued to be bigamous despite the enactment of the Hindu Marriage Act in 1955. The Court had commented that though such marriages are illegal as per the provisions of the Act, they are not 'immoral' and hence a financially dependent woman cannot be denied maintenance on this ground.

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E 20. Thus, while interpreting a statute the court may not only take into consideration the purpose for which the statute was enacted, but also the mischief it seeks to suppress. It is this mischief rule, first propounded in Heydon's Case (1854) 3 Co. Rep. 7a, 7b which became the historical source of purposive interpretation. The court would also invoke the legal maxim *construction ut res magis valeat quam pereat,* in such cases i.e. where alternative constructions are possible the Court must give effect to that which will be responsible for the smooth working of the system for which the statute has been enacted rather than one which will put a road block in its way. If the choice is between two interpretations, the narrower of which would fail to achieve the manifest purpose of the legislation should be avoided. We should avoid a construction which would reduce the legislation to futility and should accept the bolder construction based on the view that Parliament would legislate only for the purpose of bringing about an effective result. If this interpretation is not accepted, it would amount to giving a

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premium to the husband for defrauding the wife. Therefore, at least for the purpose of claiming maintenance under Section 125, Code of Criminal Procedure, such a woman is to be treated as the legally wedded wife.

21. The principles of Hindu Personal Law have developed in an evolutionary way out of concern for all those subject to it so as to make fair provision against destitution. The manifest purpose is to achieve the social objectives for making bare minimum provision to sustain the members of relatively smaller social groups. Its foundation spring is humanistic. In its operation field all though, it lays down the permissible categories under its benefaction, which are so entitled either because of the tenets supported by clear public policy or because of the need to subserve the social and individual morality measured for maintenance.

22. In taking the aforesaid view, we are also encouraged by the following observations of this Court in Capt. Ramesh Chander Kaushal v. Veena Kaushal (1978) 4 SCC 70:

*The brooding presence of the Constitutional empathy for the weaker sections like women and children must inform interpretation if it has to have social relevance. So viewed, it is possible to be selective in picking out that interpretation out of two alternatives which advances the cause - the cause of the derelicts."*

31. When all the aforesaid Rules are seen in juxtaposition and in conjunction with each other, intention of rule making authority becomes apparent and is clearly ascertained. The intention of rule making authority was, and it continues to be so, to give benefit to age relaxation to women candidates. That, according to us, represents the true intention. Otherwise the very purpose of such Rules is defeated. The rule making authority has manifest its intention by removing the ambiguity and providing a specific provision even in Rules, 2005 which, according to us, is by way of abundant caution so that such kinds of disputes or situations with which we are confronted here, are eliminated.

32. Thus, in ultimate analysis, we hold that the appellant was entitled to age relaxation as per Rule 4 of Rules, 1997 read with State Services Examination, 2003. She was, therefore, eligible to be considered for the post of Dy.S.P. The facts narrated above reveal that she participated in

A the selection process and in the merit list prepared, she was placed at Serial No.54. Persons below her in the merit list have been appointed. She was excluded only because of alleged age bar since we find that this impediment would not come in her way, the present appeal warrants to be allowed. The direction is issued to the respondents to appoint the appellant as Dy.S.P. w.e.f. the date her juniors in the merit list, namely, Tarkeshwar Patel and Ranu Sahu are appointed. Her seniority and pay shall be fixed on that basis. However, she will not be allowed to make any claim for salary for the intervening period otherwise the intervening period shall count for all other purposes.

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This appeal is allowed with costs, in aforesaid terms.

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**ABHAY MANOHAR SAPRE, J.** 1. I have had the benefit of reading the elaborate, well considered and scholarly written draft opinion of my learned Brother.

2. Having gone through the opinion, I entirely agree with the reasoning and the conclusion arrived at by my learned Brother.

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3. In my considered opinion also, the appellant is entitled to claim age relaxation as provided to women candidates in Rule 4 of Rules of 1997 read with proviso to clause (xiv) of Rule 5 of the States Services Examination Rules, which has application to the case of the appellant while considering her case for the post of Deputy Superintendent of Police. I, however, need not elaborate my conclusion since I entirely agree with the reasoning of my learned Brother on this issue.

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4. I also concur with the subtle observations made by my learned Brother in Para 26 where His Lordship has observed that the very object of promulgating the Rules of 1997 and especially Rule 4 is to encourage women's participation in various State services. In my view, denial of such benefit to a woman candidate while considering her case for the post in State services would make the Rule wholly nugatory. Such can never be the intention of the Legislature being against the spirit of Articles 15 and 16 of the Constitution of India.

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5. With these few words of my own, I fully agree with my learned Brother.

Nidhi Jain

Appeal allowed.