

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 12169 of 2015 (O&M)
Date of decision: 11.6.2015

Sat Parkash

.. Petitioner

v.

Punjab and Haryana High Court and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE G. S. SANDHAWALIA

Present: Mr. Sanjiv Bansal, Advocate for the petitioner.

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Rajesh Bindal J.

The petitioner, who is a practising Advocate, has filed the present petition impugning the memo dated 16.5.2015, vide which he was informed that he is not entitled to benefit of relaxation in minimum and maximum age limit, as notified by the State of Punjab vide memos dated 1.6.2010 and 8.10.2012, for recruitment in Punjab Superior Judicial Service.

Learned counsel for the petitioner submitted that the petitioner belongs to Scheduled Caste category. His date of birth is 1.4.1965. On 3.3.2015, this court invited applications for filling up 11 posts of Additional District & Sessions Judges in the State of Punjab by way of direct recruitment. The last date for submission of application forms was 30.4.2015. The upper age limit prescribed was 45 years as on the last date for submission of application. The petitioner, being a candidate belonging to Scheduled Caste category, is entitled to relaxation in upper age by 5 years. The petitioner attained the age of 50 years as on 1.4.2015. The submission is that the Punjab Government vide memos dated 1.6.2010 and 8.10.2012 extended the upper age limit for recruitment in Government service from 35

to 37 years. That relaxation should be made available to all the candidates, who may be applicants for the posts of Additional District & Sessions Judges and as a consequence thereof, the upper age limit fixed in the case in hand be deemed to be increased from 45 to 47 years and the petitioner may be granted opportunity to compete in the process of selection. It was further submitted that even for the purpose of recruitment in PCS (Judicial) in the advertisement issued by Punjab Public Service Commission, the upper age limit has been fixed as 37 years as against 35 years mentioned in Punjab Civil Service (Judicial Branch) Rules, 1951 (for short, 'the 1951 Rules').

After hearing learned counsel for the petitioner, we do not find any merit in the submissions made. The post of Additional District & Sessions Judge, which is in the cadre of Superior Judicial Service, is governed by Punjab Superior Judicial Service Rules, 2007 (for short, 'the 2007 Rules'). Rule 5 thereof, provides that no person shall be appointed to the Service, who is less than 35 years and more than 45 years of the age. Third proviso to the aforesaid Rule provides that the Government may from time to time, in consultation with this Court, relax the upper age limit. The said Rule is extracted below:

“5. Age.- No person shall be appointed to the Service, who is less than thirty-five years and is above forty-five years of the age on the last date of submission of application:

Provided that the aforesaid upper age limit shall not apply to the officers those who are already in the Punjab Civil Service (Judicial Branch):

Provided further that in the case of a candidate who belongs to Scheduled Caste or Backward Class the upper age limit, shall be such as may be fixed by the Government from time to time:

Provided further that the Government from time to time, in consultation with the High Court, may relax the upper age limit.”

It is not the case set up by the petitioner that the Government had ever consulted this court for relaxation of upper age limit for

recruitment to Punjab Superior Judicial Service. In the absence thereof, the argument that extension in upper age limit notified by the Government vide amendment in Punjab Civil Services (General and Common Conditions of Service) Rules, 1994 (for short, 'the 1994 Rules') shall automatically apply for recruitment under the 2007 Rules for recruitment as Additional District & Sessions Judge is totally misconceived, hence, rejected.

Even the plea that upper age limit was increased from 35 to 37 years for recruitment as PCS (Judicial) is also to be noticed and rejected. The PCS (Judicial) service is governed by the 1951 Rules. Rule 2 thereof provides that no person, who is more than 35 years of age or of such age, as may from time to time be fixed by the Government for entry into Government service, shall be eligible to apply. The aforesaid provision in the Rule clearly provides that upper age limit, as fixed by the Government for entry into Government service, is automatically applicable in Rules providing for recruitment as PCS (Judicial). Hence, the argument that relaxation having been granted in upper age limit for recruitment in PCS (Judicial) shall automatically apply to 2007 Rules is totally misconceived and deserves to be rejected.

For the reasons mentioned above, we do not find any merit in the present petition. The same is, accordingly, dismissed.

(Rajesh Bindal)
Judge

(G. S. Sandhawalia)
Judge

11.6.2015
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