

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

207

CWP No.3177 of 2011

DATE OF DECISION: March 09, 2015

Ratna Gupta

....Petitioner.

VERSUS

State of Punjab and others

....Respondents.

CORAM : HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Rajesh Gupta, Advocate
for the petitioner.

Mr. Pankaj Mulwani, DAG, Punjab.

Mr. Shekhar Verma, Advocate for S.S.A.

Mr. Daman Dhir, Advocate and
Mr. A.P.S. Mann, Advocate
for respondent no.3.

ARUN PALLI, J.(Oral)

Respondents had advertised 1572 posts of Masters/Mistress, under Sarva Shiksha Abhiyan Authority in the year 2010. The petitioner belonged to the general category and her date of birth was 26.08.1973. She was fully qualified for the post of Math Mistress, and accordingly, applied for the said post. In the written test conducted by the respondents, she secured 145 rank out of 11448 candidates in the merit list. Concededly, the criteria for selection and appointment was solely based on merit of the candidates in the written examination.

The petitioner participated in the counselling that was held on 20.01.2011 in Government Elementary School, Phase-7, Mohali, and submitted copies of the necessary certificates with the officials. However, she subsequently got to know that her candidature was rejected on account of being over age i.e. beyond 37 years. In fact, a condition as regards the age limit in the advertisement, Annexure P-1, postulates that a candidate has to be between 18 and 37 years as on 01.11.2010 i.e. the date of issuance of an advertisement (P-1). Being aggrieved against the rejection of the candidature, she approached this court vide an instant petition and pursuant to an interim order dated 22.02.2011, this court ordered that, *“In the meantime the candidature of the petitioner may not be rejected on the ground of age”*. Accordingly, the petitioner was permitted to join the counselling and was subsequently appointed as Math Mistress, vide appointment letter dated 23.03.2011. Resultantly, she is continuing in service to date.

I have heard counsel for the parties and perused the record.

Learned counsel for the petitioner contends, that in terms of the instructions issued by the Government of Punjab, vide letter No.7610.IGSI-77/31795 dated 26.07.1977, a candidate who is within the prescribed age as on 1st January of the year of submission of his/her application, would be considered within age, notwithstanding the actual date of his/her appointment. Accordingly, it is contended that though the age of the petitioner on issuance of the advertisement Annexure P-1 dated 01.11.2010, was 37 years, 2 months and 5 days, but in terms of the instructions referred to above, her age had to be assessed as on 1st January 2010 i.e. the year of submission of her application and on that day, she was within the prescribed

age limit i.e. less than 37 years.

Learned counsel for the respondents do not controvert the position as sketched out above. Rather, very fairly states that the matter in issue is covered by the instructions dated 26.07.1977, and the petitioner is indeed continuing in service since the date of her appointment i.e. 21.03.2011.

Needless to assert, in the wake of the position as set out above, candidature of the petitioner was erroneously rejected by the respondents. Further, as the interim order dated 22.02.2011, passed by this Court vide which it was ordered that candidature of the petitioner would not be rejected on the ground of age, was never assailed or questioned by the respondents, as a result, petitioner was appointed on merits and is continuing since March 2011. Accordingly, the writ petition is allowed only to the extent that a clause in the advertisement (P-1), that envisage a candidate to be between 18 and 37 years, as on 01.11.2010, for appointment of Masters/Mistress under Sarva Shiksha Abhiyan, is set aside.

(ARUN PALLI)
JUDGE

March 09, 2015

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