

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.24908 of 2015
Decided on : 03.12.2015**

Nandini and others

... Petitioners

Versus

State of Punjab and others

... Respondents

(2)

CWP No.24693 of 2015

Parminder Kaur and others

... Petitioners

Versus

State of Punjab and others

... Respondents

(3)

CWP No.25065 of 2015

Bharat Bhushan and others

... Petitioners

Versus

State of Punjab and others

... Respondents

(4)

**CM Nos.15462 and 15720 of 2015 in
CWP No.26490 of 2014**

Jyoti Sood

... Petitioner

Versus

State of Punjab and Another

... Respondents

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

Present : Mr. Shailendra Sharma, Advocate and
Mr. Gitish Bhardwaj, Advocate for the petitioners
in CWP No.24908 of 2015.

Mr. Sunny Singla, Advocate for the petitioners
in CWP No.24693 of 2015.

Mr. Amandeep Sharma, Advocate for
Mr. P.S. Khurana, Advocate for the petitioners
in CWP No.25065 of 2015.

Mr. Sanjeev Patiyal, Advocate for the applicant-
petitioner CM Nos.15462 and 15720 of 2015 in
in CWP No.26490 of 2014.

Mr. APS Mann, Addl. AG, Punjab.

G.S. Sandhawalia , J. (Oral)

This order will dispose of CWP Nos. 24908, 24693, 25065 of 2015 and CM Nos.15462 and 15720 of 2015 in 26490 of 2014. The facts are being taken from CWP No.24908 of 2015.

In the first three writ petitions the petitioners challenge the terms of advertisement dated 09.11.2015 (Annexure P-2), wherein the respondent-Board invited online applications from eligible candidates to fill up 3522 ETT Teachers Posts on behalf of the Education Department. The challenge is to the fixing of the upper age limit as 37 years, which has resultantly led to the petitioners being rendered ineligible to apply to the said posts without any fault on their part. They had also deposited the fee of ₹1,000/- per candidate in pursuance of the said application, which has still not been refunded to them.

It is the case of the petitioners that they have passed the test between the year 2008 to 2012 of the Elementary Teachers Training Course and PSTET in the year 2013. In the

year 2014 the Department of Rural Development and Panchayat , Punjab invited district-wise applications for filling up the 4901 vacancies in various primary school functioning under Zila Parishad. The age for recruitment as on 01.01.2014 was between 18 to 38 years. The petitioners had applied in pursuance of the applications being eligible. The selection process had been dropped in September, 2014 on account of the decision to merge the schools running under the Zila Parishad with the Education Department. Now, by virtue of the advertisement dated 09.11.2015 (Annexure P-6), the posts had been advertised. As per the present advertisement as noticed, the upper age limit has been fixed as 37 years as on 01.01.2015.

The petitioner Jyoti Sood in CWP No.26490 of 2014 has challenged the cancellation of the advertisement of 2014 on the ground that she will not be able to apply in future on account of becoming overage. Resultantly, an application in the said case has also been filed i.e. CM Nos. 15462 and 15720 of 2015 for consideration of her case, subject to the decision of the main writ petition.

The petitioners have contended that the Punjab State Education Class-III (Primary Schools Cadre) Service Rules, 1997 would be applicable for the appointment in pursuance to the

advertisement in question dated 09.11.2015. As per Rule 5 the upper age limit can be stretched to 42 years, as per the decision to be taken by the Government.

The State on the other hand relied upon the provisions of the Punjab Civil Services (General and Common Conditions of Service) Rules, 1994 to submit that the correct age has been mentioned in the advertisement. Vide order dated December 01, 2015, the State was directed to file an affidavit as to which of the rules would be applicable.

In compliance of the same an affidavit has been filed by the Deputy Director, Education Recruitment Directorate, Education Department, in which it has been submitted that the posts of ETT Teachers which were advertised would be governed by the Punjab State Education Class-III (Primary Schools Cadre) Service Rules, 1997. Rule 5 reads as under:-

“No person shall be recruited to the Service by direct appointment if he is less than 18 years or is more than 42 years on 1st day of January of the year immediately proceeding the last date fixed for submission of applications by the Board or such authority as may be specified by the Government in this behalf from time to time unless he is within such range of minimum and maximum age limit as maybe specifically fixed by the Government from time to time.”

It is also brought to the notice of this Court that some of

the petitioners in CWP No.24693 of 2015 have represented to the respondent-State regarding fixing of the age limit on 12.11.2015 (Annexure P-7), by bringing to their notice the factum of the earlier advertisement of 2014, which was cancelled.

Counsel for the petitioner (s) has further placed reliance upon order passed by this Court in CWP No.1647 of 2011 titled as 'Ranjit Singh and others Vs. State of Punjab and others' decided on 28.01.2011, wherein in similar circumstances posts of linemen in the Corporation had been advertised after a long spell and certain candidates had crossed the maximum age of 37 years. This Court had passed the following order:-

“(4). Having heard learned counsel for the petitioners at some length though it appears to be a case of hardship to the petitioners who are likely to be deprived of their right to compete merely because the posts have been advertised after a long period. It would still not be expedient for this Court to interfere in the matter as it involves a policy decision which falls within the domain of the respondents only.

(5). The writ petition is accordingly disposed of with a direction to the Chairman/Managing Director of the respondent-Corporation to take a conscious decision in consultation with the State Government regarding enhancement in the maximum age limit for recruitment of contractual employees like Lineman.

(6). It is directed that either the decision shall be taken before the cut-off date i.e. 14.02.2011 / 21.02.2011 and/or in the event of acceptance of the petitioner's claim for enhancement of the maximum age, the last

date to apply shall be extended to enable them to compete for the advertised posts.

(7). Ordered accordingly. Dasti.

Since, it is also been admitted that the posts advertised would be governed by the 1997 Rules and therefore, keeping in view the provisions of Rule 5 of the said Rules, the decision should be taken by the competent authority as it is settled principle that it is for the State to decide such policy issues.

Keeping in view the said fact that the last date for applying was yesterday i.e. 02.12.2015 and the petitioners had approached this Court before the last date, it would be appropriate if the competent authority takes a decision on the said representation, keeping in view the background which has been noticed above.

The needful be done within a period of 10 days from the receipt of the certified copy of this order. In case the petitioners claim for enhancement is granted the State Government would accordingly extend the last date to enable the petitioners and other eligible persons to apply for the advertised posts.

Needless to say that in case the benefit is not granted by the State, it is always open to the petitioners to challenge the decision of the State.

With the above observations, the present three writ petitions are disposed of alongwith CM Nos.15462 and 15720 of 2015 in 26490 of 2014.

Copy of this order be given *dasti* under the Signatures of Special Secretary of this Court.

DECEMBER 03, 2015
Naveen

(G.S. SANDHAWALIA)
JUDGE