

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

CWP No. 25965 of 2015
Date of decision: 11.12.2015

Ravinder Kaur

....Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

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

Present: Mr. P.S. Punia, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

Challenge in the present writ petition is to the fixation of upper age limit of 37 years fixed in the advertisement dated 20.11.2015 (Annexure P-1). As per clause 5(i), the candidate should be between 18 to 37 years on 01.01.2015.

Counsel submits that the petitioner has gone beyond that age and on account of no advertisement being issued for the last more than a year and earlier selection having been cancelled she has become overage.

The petitioner has no vested right and has only a right of consideration within the parameters to be fixed by the employer. It is the discretion of the employer to fix the upper age limit. It is settled principle that it is a policy decision, which is not to be interfered by this Court. Reference can be made to the judgment of the Apex Court in *Union of India vs. Pushpa Rani and others, 2008 (11) SCR 440*. The issue in question in the said case which arose was the question of reservation for the post and the restructuring of the cadres. It was accordingly held as

under:-

“29. Before parting with this aspect of the case, we consider it necessary to reiterate the settled legal position that matters relating to creation and abolition of posts, formation and structuring/restructuring of cadres, prescribing the source/mode of recruitment and qualifications, criteria of selection, evaluation of service records of the employees fall within the exclusive domain of the employer. What steps should be taken for improving efficiency of the administration is also the preserve of the employer. The power of judicial review can be exercised in such matters only if it is shown that the action of the employer is contrary to any constitutional or statutory provision or is patently arbitrary or is vitiated due to mala fides. The Court cannot sit in appeal over the judgment of the employer and ordain that a particular post be filled by direct recruitment or promotion or by transfer. The Court has no role in determining the methodology of recruitment or laying down the criteria of selection. It is also not open the Court to make comparative evaluation of the merit of the candidates. The Court cannot suggest the manner in which the employer should structure or restructure the cadres for the purpose of improving efficiency of administration.”

In such circumstances, there is no scope for interference in the fixing of the age limit, which is the prerogative of the employer and the present writ petition is accordingly dismissed.

11.12.2015
shivani

(G.S. SANDHAWALIA)
JUDGE