

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

**CWP No.26198 of 2015
Date of decision: 17.12.2015**

Dayawanti

... Petitioner

Versus

The State of Punjab & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Madhav Pokhrel, Advocate,
for the petitioner.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

The selection process for direct appointment to the 286 posts of Angarwari Workers advertised was concluded in January, 2015. The advertised posts had been filled by the successful candidates and they are working. The recruitment process has become a dead ball. The petitioner claims to be among the top ten successful candidates from amongst 286 posts. She turned 58 years on December 8, 2015. The age of retirement is 60 years, and so the petitioner avers. Nothing has been placed on record to establish this fact as to when Anganwari Workers' retire.

On merits, the argument is that by the clarification issued by the Panjab University, Chandigarh that in the old assessment system i.e. 10+1+3, B.A. Part I examination was equivalent to 10+2 in the new educational system ushered in India, which qualification in the old system the petitioner possesses. She is a product of the old education system of 10+1+3. Her candidature for the post has been rejected on the ground that

her marks secured in B.A. Part 1 cannot be counted.

On the other hand, the petitioner contends that the two qualifications have been equated by the Panjab University and the B.A Part 1 marks should have been accounted for to total her marks as per the criteria and accordingly factored into her merit which would bear fruit in securing the job. As per the selection criteria weightage of 10% is assigned for +2 marks. The advertisement does not provide for marks secured in the B.A Part 1 examination, which is the first examination leading to a graduate degree in Arts. If weightage is given to the petitioner for her marks obtained in BA Part-1 then she would make the grade of selection and bring her within the zone of consideration for appointment. However, no order has been passed in writing or communicated to the petitioner with respect to rejection and even if the assertion is accepted as correct, even then it appears rather too late to upset the selection that has come to a dead end when all the posts advertised stand filled up. In case there are unfilled vacancies, but the recruitment process has come to an end, even then those vacancies would have to be carried forward to the fresh recruitment process in the future.

Moreover, there may be no wisdom in appointing an Anganwari Worker who have crossed they age of 58 years or was not too far way when she applied. The minimum and maximum age fixed for recruitment is to be understood in a way that the person appointed will serve for considerable time and effectively contribute to the calling in the village society that makes for the workplace. No gainsaying that by the time ropes have been learnt, retirement looms. I do not think that this

Court should interfere in the brink of time in its extraordinary and discretionary jurisdiction provided by Article 226 of the Constitution of India on the present facts. It is a time and tested argument that an order will not be passed only because it is lawful to do so.

Dismissed.

(RAJIV NARAIN RAINA)
JUDGE

17.12.2015
monika