

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: 17.10.2016

1.CWP No.8059 of 2000

Amrit Kaur

... Petitioner

Versus

State of Haryana and others

... Respondents

2.CWP No.10371 of 2000

Balbir Singh

...Petitioner

Versus

State of Haryana and others

... Respondents

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

Present: Ms.Harmanpreet Kaur, Advocate for the petitioners

Ms.Shruti Jain Goyal, AAG, Haryana

RAJIV NARAIN RAINA, J. (Oral)

1. This order will dispose of CWP Nos.8059 and 10371 of 2000 as common questions of law and facts are involved in both the writ petitions. However, for the sake of convenience, facts are being taken from CWP No.8059 of 2000.

2. The maximum age limit for entry into service in terms of Advertisement No.3/99 published in the Dainik Tribune on 14.11.1999 was 40 years. The applications were invited from eligible candidates for filling up the posts of C&V Teachers. The only relaxation in upper age limit was for

candidates belonging to Backward Classes and Scheduled Castes of Haryana and candidates who were economically Backward Classes of Haryana whose monthly income is less than Rs. 3600/- per annum, and ex-servicemen/widows and divorced women/legally separated women from their husbands, women deserted by husbands, dependents of deceased/physically handicapped ex-servicemen.

3. Indisputably, the petitioners in this set of cases do not fall in any of the categories of age relaxation. The petitioner in the first case claims that her name was sponsored by the Employment Exchange, and therefore, relaxation should be given to her for the years her name remained in the queue in the Employment Exchange till the advertisement appeared. When the advertisement was issued, statutory rules governing service known as Haryana State Education School Cadre (Group-C) Service Rules, 1998 had come into force on 12th May, 1998. According to Rule 5, no person shall be appointed to the post in the service by direct recruitment who is less than 17 years or more than 35 years of age on the last date of submission of application to the Commission or the recruiting authority as the case may be. However, after coming into force the statutory service rules, the Government vide letter dated 1st October, 1999 (Annex R-1) took a decision that the maximum age limit for direct recruitment in the case of Class III posts shall be 40 years and these instructions did not provide that there shall be any upper age relaxation in case of those applicants/candidates who got their names registered in the Employment Exchange within the prescribed age limit and those who are/were working on ad hoc basis. The petitioner has relied on the instructions placed on record as Annex P-6 to P-9 which do not promote the case of the petitioner for relaxation of upper age limit in her favour. Therefore, there is no merit in both the writ petitions in view of the

assertions made by the State in the reply put in to contest the case. No replication has been filed to controvert this fact or the legal position. Undoubtedly, the petitioner on the cut off date was over 40 years of age and thus neither can she have the benefit of statutory rules nor the instructions dated 1st October, 1999 which increased the age limit to 40 years. Any further relaxation in age will be outside the domain of the writ court as it would amount to legislation or rewriting the rule and the instructions. Moreover, 16 years have gone by and it would serve no useful purpose even to consider issuing directions to appoint the petitioner, even if there was a whisper of a right. If the petitioners were employed earlier on ad hoc basis in the department for sometime prior to the advertisement that would also not change the legal position. See, **Union of India & Anr. v. Arunmozhi Iniarasu & Ors.**, (2011) 7 SCC 397= AIR 2011 SC 2731 and **Dr.Amit Kumar Sidhu and Ors. vs. State of Punjab and Ors.** 2016 (1) S.C.T. 205.

4. In view of the above, I find no reason to interfere in both the writ petitions and the same are hereby dismissed with no order as to costs.

(RAJIV NARAIN RAINA)
JUDGE

17.10.2016
MFK

Whether speaking/reasoned
Whether Reportable

Yes
No