

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No. 1006 of 2016 (O&M)
Date of Decision: 13.07.2016.

Ved Parkash

--Petitioner

Versus

State of Haryana and others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. P.S. Jammu, Advocate for the petitioner.

Mr. Hitesh Pandit, Addl. A.G., Haryana with
Mr. Ravi Pratap Singh, A.A.G., Haryana.

TEJINDER SINGH DHINDSA.J

The petitioner, who was earlier engaged as Law Officer on ad hoc basis in the Haryana Vidhan Sabha Secretariat and had worked as such till 28.9.2015, has filed the instant writ petition raising a two fold claim.

In the first instance a Writ of Certiorari is sought seeking quashing of letter dated 29.9.2015 (Annexure P-9), whereby private respondent no.4 has been appointed against the vacant post of Law Officer. It has been contended that respondent no.4 while manning the post of Telephone Attendant has been adjusted against the post of Law Officer.

The second claim set up in the petition is that the respondent authorities have initiated a process of selection and appointment to the post of Law Officer on a regular basis but since the date of birth of the petitioner is 5.12.1969 he has become overage and under such circumstances he be granted the benefit of age relaxation.

Upon notice of motion having been issued, a joint reply on behalf of respondents no.2 and 3 has been filed.

Learned counsel for the parties have been heard.

In so far as the challenge to the appointment of respondent no.4 on the post of Law Officer is concerned, the present writ petition would not even survive. This is in the light of a statement being given by learned State counsel upon instructions from Sh. Kulbir Singh, Law Officer, Haryana Vidhan Sabha Secretariat to the effect that respondent no.4 has since been disengaged and is presently not working on the post of Law Officer.

In so far as the second claim of the petitioner for grant of relaxation in the upper age limit for consideration of appointment to the post of Law Officer on a regular basis, Mr. P.S. Jammu, learned counsel for the petitioner would vehemently argue that the petitioner had been engaged on ad hoc basis initially in the year 2010 on 89 days basis and thereafter had been granted periodic extensions and has continued till 28.9.2015. It is submitted that the upper age limit prescribed for the appointment to the post of Law Officer on a regular basis is 45 years and the petitioner has become overage during the period of his engagement as a Law Officer on ad hoc basis. It is further submitted that earlier post had been advertised in the year 2014 vide advertisement no.3/2014 to be filled up on regular basis and at that point of time the petitioner was eligible and had applied but for reasons best known to the respondent authorities the advertisement was withdrawn. It is submitted that since the same very post has again been re-advertised the petitioner would have a right in equity as also in law to be granted benefit of age relaxation.

The factual assertions raised on behalf of the petitioner by Mr. Jammu have not been controverted by learned State counsel. Be that as it may, relaxation in the age limit would be entirely within the prerogative of the employer/competent authority. A Writ of Mandamus cannot be issued

by this Court for directing the employer/competent authority to grant age relaxation pertaining to a recruitment process as also the conditions of eligibility governing a particular post. Age relaxation would be in the nature of a concession and such decision is to be taken by the competent authority against the backdrop of relevant parameters.

In view of the above, while declining to interfere in the present writ petition, the issue pertaining to claim of the petitioner as regards age relaxation is kept open. In case the petitioner raises a claim for age relaxation pertaining to the selection process already initiated for appointment to the post of Law Officer on regular basis, it would be open for the competent authority to look into the matter and to take a decision thereupon.

Petition is, accordingly, disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

13.07.2016.
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