

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.7296 of 2011
Decided on : 18.02.2016

Gian Singh

... Petitioner

Versus

State of Punjab & others

... Respondents

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

Present : Mr.Ashok Bhardwaj, Advocate, for the petitioner.

Mr.Avinit Avasthi, AAG, Punjab.

Mr.Deepak Sabharwal, Advocate,
for respondents No.2 & 3.

G.S. Sandhawalia , J. (Oral)

Petitioner seeks the relief of quashing of the order dated 21.10.2010 (Annexure P8) whereby the petitioner's case for compassionate appointment had been rejected by the respondent-Corporation, on the ground that the petitioner was aged more than 30 years, which is the upper age limit, as per the PUNSUP Services Rules, 1985.

It is the pleaded case of the petitioner that his father, Parkash Singh was working as a Peon, with the respondent-Corporation and expired on 30.05.2008. An application was made by the petitioner that he was +2 pass and unemployed and his mother was residing with him as she had become dependent upon him after the death of the father. Resultantly, appointment on compassionate ground was prayed for, as per the qualifications.

The case was processed and the salary of the brother of the petitioner was sought to be verified and the number of children the deceased employee had. It was, accordingly, communicated to the Corporation that the salary was approximately Rs.17,000/- per month and he was posted at Hyderabad and the said employee further had 2 children whereas the petitioner was doing labour work and he had also 2 children. Thereafter, the impugned order had been passed, rejecting the case of the petitioner on the ground that the petitioner was overage, as per the rules of the Corporation.

Counsel for the petitioner had raised an argument that as per the amended regulations, the age limit had been extended upto 37 years and therefore, having been born on 13.09.1976, was below the upper age limit, on the date of consideration.

Counsel for the respondent-Corporation had taken time on the last date of hearing, to verify the fact as to when the revised regulations came into force and as to what is the upper age limit.

A decision dated 29.03.2011 of the minutes of the meeting of the Board of Directors of the Corporation has been placed on record to show that the upper age limit was revised to 37 years, which is post the date of consideration. Therefore, it is apparent that no fault, as such, can be found regarding the ground on which the petitioner's case has been rejected. Relevant part of the decision reads as under:

“vi) The age limits as per Punsup Bye-laws 1985 for direct recruitment was 18 to 30 years. The Punjab Govt. vide notification No.GSR.20/const./ART.309/Amd(1)/ 2010 dated 24.5.2010 has revised this limit to 37 years for general category and in case of reserved category relaxation shall be as per policy in vogue from time to time as notified by the Punjab Govt. while making recruitment in Punsup, the latest guidelines of Punjab Govt. will be operative.”

Counsel for the petitioner has, however, raised a new issue which is that the petitioner belongs to Backward Class category. He has placed reliance upon 2 certificates dated 18.10.1995 (Annexure P10) to show that he belongs to 'Swarnkar' caste and similarly, another certificate dated 06.08.2013 (Annexure P14) whereby his caste has been shown as 'Soni Rajput'. Reliance has also been placed upon the notifications dated 02.05.1997 and 15.05.2001 (Annexure P15 Colly.), to show that 'Soni Rajputs' are also included in the list of Other Backward Classes, in the State of Punjab.

Counsel for the petitioner submits that since the petitioner belongs to Backward Class, accordingly, the relaxation in the age was to be granted as per the Government instructions, even in view of the unamended regulations and has referred to Clause 7 whereby candidates belonging to Backward Classes were entitled for the relaxation in the upper age limit, as per the Government instructions, issued from time to time. Reliance has, accordingly, been placed upon the instructions dated 16.02.1966

(Annexure P12) that for Backward Class candidates, relaxation in the upper age limit could be 5 years.

This issue, apparently, was never raised before the authorities but has been put forth before this Court, for the first time and the decision has only been taken, as noticed, regarding treating the petitioner as a General Category candidate. Resultantly, this Court is of the opinion that it would be appropriate if a fresh consideration is done on the application of the petitioner, keeping in view the issue, which has now been raised on the strength of the claim that he belongs to a Backward Class and is entitled for the relaxation of the upper age limit, which was permissible even as per the unamended 1985 Regulations of the Corporation.

Accordingly, the present writ petition is partly allowed. The impugned order dated 21.10.2010 (Annexure P8) is quashed. The respondent-Corporation is directed to reconsider the issue afresh. It will be open to the petitioner to file a fresh application, giving all the details with necessary certificates, within one month from the date of receipt of a certified copy of this order. The respondent-Corporation shall complete the exercise within a period of 3 months from the receipt of the said application.

FEBRUARY 18, 2016
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(G.S. SANDHAWALIA)
JUDGE