

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.27445 of 2013

Date of Decision:-29.11.2016.

Dr. Anju Gupta

.....Petitioner

Versus

Union of India and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Lalit Rishi, Advocate for the petitioner.

Mr. V.K. Kaushal, Advocate for respondent No.1.

Mr. A.S. Virk, Advocate for respondent Nos.2 to 4.

Mr. Parveen Sharma, Advocate for
Mr. Arvind Singh, Advocate for
respondent Nos.5 to 7.

P.B. BAJANTHRI, J. (Oral)

1.) In the instant writ petition, the petitioner has questioned the selection and appointment of respondent Nos.4 to 7 to the post of Assistant Professor, Chemistry in the Grade Pay of ₹ 7,000/- and further sought for a direction to declare that she is suitable to the post of Assistant Professor, Chemistry etc.

2.) The petitioner was appointed as Assistant Professor (on contract basis) on consolidated pay during the period from 2006 to 2013. Petitioner acquired M.Phil in Chemistry qualification and Ph.D. Qualification acquired in the year 2008 and 2011 respectively. The respondents-National Institute of Technology (for short 'NIT') rejected the

candidature of the petitioner to the post of Assistant Professor in Chemistry on the ground that she was over age as on the date of advertisement as well as on the last date of making an application. At that time, she was aged about 38 years whereas minimum age prescribed is 35 years. Feeling aggrieved by the decision of the NIT, she approached this Court filing CWP No.16510 of 2013. This Court directed the NIT to interview the petitioner by way of interim order. The interim order was subject matter in LPA No.1396 of 2013. With certain observations, the LPA was disposed of. Observation reads as under:-

“We are, however, not impressed by this contention. We say so for the reason that firstly the letters patent appeal against an interim order merely directing provisionally consideration of candidature of the respondent itself is not maintainable; secondly, the interim order does not amount to expression of opinion on merits of the case and thirdly, the question whether the first respondent is entitled to the benefit of age relaxation on account of the fact that she has served the appellant-Institute on contract basis since the year 2006, is still pending consideration before the learned Single Judge. Suffice it would be to observe that the appellants shall be at liberty to raise all the contentions before the learned Single Judge.

With afore-mentioned observations and liberty, the appeals stand dismissed.”

3.) In the meanwhile, the petitioner was interviewed and found unsuitable on merit. While considering the fact that the petitioner was interviewed and she was found unsuitable, CWP No.16510 of 2013 was disposed of on 4.12.2013 while permitting the petitioner to challenge the

selection process and again agitate the ground that she was wrongly

excluded from consideration. Thus, the present petition has been filed.

4.) Admittedly, the petitioner has not questioned the validity of prescription of minimum age qualification for the post of Assistant Professor in the Grade Pay of ₹ 7,000/- as “age preferably below 35 years”. As long as prescription of age qualification is not challenged. Admittedly, she is over age as on the last date of making application i.e. 26.4.2013 her age was 38 years. Therefore, the petitioner do not fulfill the age qualification for the post of Assistant Professor in the Grade Pay of ₹ 7,000/-. In the absence of challenge to age qualification or in the alternative waiver or relaxation of age by the NIT, the petitioner is not entitled to seek quashing of the selection and appointment of respondent Nos.4 to 7 to the post of Assistant Professor, Chemistry and seek further direction to declare her suitable for the post of Assistant Professor, Chemistry. So far as question of merit is concerned, the same cannot be decided for the reasons that the petitioner has no *locus standi* to apply for the post of Assistant Professor as he do not fulfill the age qualification and not eligible to participate in the process of selection, since age criteria would be hurdle.

5.) Accordingly, petition stands dismissed.

(P.B. BAJANTHRI)
JUDGE

November 29, 2016.

sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.