

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

LPA No.1811 of 2015 (O&M)

Date of decision: 29.02.2016

Mam Chand

.... Appellant

Versus

State of Haryana and others

.... Respondents

**CORAM: Hon'ble Mr. Justice Surya Kant
Hon'ble Mr. Justice P.B. Bajanthri**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Virender Kumar, Advocate for the appellant.

P.B. Bajanthri, J.

The appellant is aggrieved by the order of the learned Single Judge dated 11.03.2015 passed in CWP No.7745 of 2007.

2. The appellant was working in the Haryana State Minor Irrigation Tubewell Corporation. (hereinafter referred as Corporation). Corporation was shut down in the year 2002. The appellant's services were retrenched among others while shut down of the Corporation. In the year 2002, the State Government formulated a scheme regarding re-employment of regular retrenched group C and D employees of Board/Corporation/Public Sector Undertaking etc. those who are retrenched during the period from 01.03.2000 to 01.03.2005 against the vacancies of

Boards/Corporation/Public Sector Undertaking/Co-operative federation/Urban Local Body/Panchayati Raj including the departments of the State Government within a period of 6 months. The said scheme was in vogue till 18.05.2006 (for a period of 5 years). In view of the expiry of the aforesaid scheme, the State Government formulated one more scheme/policy to appoint by way of adjustment of the retrenched employee of Boards/Corporation/Public Sector Undertaking/Cooperative Federation etc. including the Government Departments on 21.06.2006 (Annexure P-4) to the writ petition.

3. One of the conditions stipulated in the renewed scheme is as follows:-

“3. The employees who are less than or 55 years of age as on 18.05.2006 shall be considered for adjustment”.

4. The appellant's case did not fall within the aforesaid clause. Therefore, the appellant was aggrieved by the cut off dated 18.05.2006 which made him ineligible to appoint by way of re-adjustment of the retrenched employee of Boards/Corporation etc. Hence, the appellant questioned the validity of condition No. 3 (supra) in the CWP No. 7745 of 2007.

5. Learned Single Judge having regard to the scheme/policy of the State Government read with the decision of the Apex Court dismissed the petition stating that fixation of cut off date in condition No.3 is reasonable and there is no arbitrariness in its fixation for the purpose of re-adjustment of the retrenched employees of Boards/Corporation etc. The appellant feeling aggrieved by the order of the learned Single Judge dated 11.03.2015 contended that fixation of cut off date vide notification dated 21.06.2006 to

appoint the retrenched employees of Boards/Corporation etc. is arbitrary.

6. Learned counsel for the appellant submitted that there is no nexus with the fixation of date as 18.05.2006 in para 3 of the notification dated 21.06.2006. The cut off date should have been with starting of the month etc. Therefore, the order of the learned Single Judge is not in order.

7. Heard learned counsel for the parties.

8. We may observe at the outset that the matters like creation and abolition of posts, formation and structuring/restructuring of cadre,, prescribing the source/mode of recruitment, qualifications, last date of application and cut of date criteria of selection/evaluation of service records of employees and framing of various schemes relating to the employees including grant of any benefit to the retrenched employees, etc. etc. fall within the exclusive domain of employer. Power of judicial review can be exercised in such matters only if it is shown that the action of the employer is contrary to any constitutional or statutory provision or is patently arbitrary or is vitiated by malafide. The Court cannot sit in the appeal over the assessment/decision of the employer and the Court has no role in determining the methodology of recruitment or laying down the criteria of selection or service condition of employees. The Court cannot suggest the manner in which the employer should structure or restructure the cadres for the purpose of improving efficiency of administration with reference to rules of recruitment/schemes/policy.

9. In the present case, the State Government time and again has issued scheme/policy relating to re-appointment/re-adjustment of retrenched employees of various corporations boards. We have noticed that there is no infirmity in fixation of date in para 3 i.e. employees who are less than 55

years of age as on 18.05.2006 shall be considered for adjustment. We have also noticed that the reason behind fixation of the date as 18.05.2006 is with reference to the earlier similar scheme/policy which were notified on 18.05.2001 for a period of 5 years which expired on 18.05.2006. Therefore, fixation of date 18.05.2006 in para 3 of the order dated 21.06.2006 is in order and is not arbitrary or illegal. Consequently, there is no error or infirmity in the order of the learned Single Judge. Hence LPA is dismissed.

No order as to costs.

29.02.2016
pooja saini

(SURYA KANT)
JUDGE

(P.B.BAJANTHRI)
JUDGE