

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CWP-19407-2016

Date of decision : 18.07.2017

Dr.Sat Pal Wadhwa

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr.Rakesh Nagpal, Advocate
for the petitioner.

Mr.Hitesh Pandit, Addl.A.G. Haryana.

AMOL RATTAN SINGH, J.(ORAL)

Learned counsel for the petitioner submits that the petitioner has a right to extension in service beyond the age of 58 years, on the basis of the policy of the Government dated 02.02.2016, Annexure P-4.

Mr.Nagpal specifically points to sub-clause (vii) of Clause C in paragraph 4 of the said instructions which reads as follows:-

“(vii) When a Department is facing shortage of experienced hands and there is no alternative but re-employment everyone who attains the age of superannuation should be considered for re-employment except these who are physically and mentally unfit to continue in service or have a bad service records. A policy of pick and choose should be avoided as far as possible.”

Very obviously, the said policy is for re-employment of employees to posts which are not being filled, and there is no alternative but to man them but by such re-employment.

He has further pointed to the case of one Sh.Ved Parkash who was an Associate Professor in Hindi and has been admittedly re-employed by the government, even as per its written statement.

Mr.Nagpal has also pointed to the fact that vide a communication dated 15.10.2015 from the Director General, Higher Education, Haryana, to the Principal, Govt. College for Women, Rohtak, where the petitioner was earlier working (Annexure P3), there were more than 173 vacant posts in the subject of Commerce in the Department of Higher Education, Haryana, as on that date.

For that reason that the petitioners' request for transmission of his application for appointment in the Central University, Haryana, was refused.

The contention of the petitioner therefore is that on the one hand his application for employment elsewhere was turned down on the ground that too many vacancies exist in his subject and therefore his services could not be dispensed with, and on the other hand, re-employment has been refused to him despite such vacancies being existent.

On query, learned counsel for the State has submitted, on instructions, that the process of regular selection of Assistant Professors in various disciplines, including Commerce, is underway with the Haryana Public Service Commission, with interviews in progress.

In such a situation, no writ of mandamus can be issued to the respondents to re-employ the petitioner in terms of the instructions referred to above. However, the petitioner would obviously be at liberty to apply to the respondents for re-employment, who would consider his application on merits, seeing whether there is need for such employment in his subject, or

not.

If the petitioner makes such an application, it would be considered and decided within a period of two months from the date of such application being made.

Disposed of with the above directions.

(AMOL RATTAN SINGH)
JUDGE

July 18, 2017.
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No