

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

CWP No.4136 of 2014

Date of Decision:16.03.2017

Harinder Singh

... Petitioner

Vs.

District and Sessions Judge Amritsar

... Respondent

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

Present : Mr. R.S. Sidhu, Advocate for the petitioner.

Mr. Vikas Suri, Advocate for the respondent.

P.B. BAJANTHRI J. (Oral)

The petitioner is a candidate for recruitment to the post of Process Server. His candidature has been rejected on the score that he was over age for the recruitment under OBC category.

Learned counsel for the petitioner submitted that various Sessions Courts are recruiting Group-C and Group-D post wherein the age criteria is 18 to 38 years for General Category and relaxation of age for reserve category is as per rules/instructions of the Punjab Government. If the rules read with Punjab Government instructions in respect of prescription of age for reserve category is taken into consideration, 5 years over and above the normal recruitment age for Scheduled Castes/Backward Classes has been prescribed and the same is being followed. Therefore, having regard to the age criteria from 18 to 38 years, the petitioner's claim cannot be rejected. Hence, rejection of petitioner's claim that he is over age is contrary to the various notifications issued from time to time by various Sessions Courts while recruiting to the post of Group-C and Group-D.

Whereas in the present case, the prescription of age criteria as 18 to 35 years

is contrary to their own criteria prescribed for various posts.

Per contra, learned counsel for the respondent vehemently contended that the Punjab Subordinate Courts Establishment (Recruitment and General Conditions of Service) Rules 1997 was amended on 30.8.2012 in respect of Group 'D' service and Rule 9 of Punjab Subordinate Courts Establishment (Recruitment and General Conditions of Service) Group 'D' Service Rules, 2012 (for short "2012 Rules") stipulates age criteria for the selection and appointment to the post of Group 'D' service. Rule 9 of 2012 Rules reads as under:

"9. AGE.(1) No person shall be recruited to the service by direct recruitment if he is less than 18 years or is more than 35 years of age;

Provided that the upper age limit may be relaxed up to forty five years in the case of persons already in the employment of the Punjab Government, Haryana Government, other State Government or the Government of India, High Court, other subordinate Courts or Union Territory.

Provided further that in the case of candidates belonging to Scheduled Caste, Scheduled Tribe and other Backward Classes, the upper age limit shall be as such as may be fixed by the State Government from time to time."

As per second proviso to Rule 9 of 2012 Rules, the upper age limit for Scheduled Caste, Scheduled Tribe and other Backward Classes shall be as such as may be fixed by the State Government from time to time. Learned counsel for the respondent pointed out that on 24.1.1979, the State Government has issued a circular or communication by which it is stated that in respect of Scheduled Caste, Scheduled Tribe and other Backward Classes, 5 years over and above the normal recruitment age has been prescribed.

Reading of Rule 9 of 2012 Rules read with circular dated 24.1.1979 issued by the State Government, it is crystal clear that the upper age limit for Scheduled Caste, Scheduled Tribe and other Backward Classes would be $35 + 5 = 40$ years. In the present recruitment, last date for submission of application as 22.6.2013 and as on that date the petitioner is more than 40 years old. Therefore, respondents have rightly rejected the petitioner's candidature.

Heard learned counsel for the parties.

Having regard to the Rule 9 of 2012 Rules read with Government circular dated 24.1.1979, it is evident that for Scheduled Caste, Scheduled Tribe and other Backward Classes maximum age would 40 years. As on the last date of submission of application to the post of Process Server, the petitioner is over age, therefore, the petitioner is not entitled for the relief sought in the present petitioner.

Learned counsel for the petitioner further contended that from time to time various Sessions Courts while inviting application for Group-C and Group-D post, the age criteria is being stipulated as 18 to 38 years. Therefore, similar benefit should have been extended to the petitioner.

If the Sessions Courts while recruiting to the Group-C and Group-D post have committed wrong to the extent of prescription of age criteria from 18 to 38 years and which is contrary to Rule 9 of 2012 Rules read with Government circular dated 24.1.1979. Knowingly that various Sessions Courts have committed a wrong while prescribing age criteria for Group-C and Group-D post, the same cannot be extended to the petitioner in the present case. Such extension would be contrary to 2012 Rules read with Government circular dated 24.1.1979. Hence, the petitioner has not made

out a case for interference in the matter.

Petition stands dismissed.

16.03.2017

rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No