

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

CWP No. 3617 of 2015 (O&M)
Date of decision: 3.4.2017

Baljeet Kaur

...Petitioner

Versus

The Baba Farid University of Health and Sciences, Faridkot and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. P.S. Khurana, Advocate,
for the petitioner.

Mr. K. S. Sandhu, Advocate,
for the respondents.

JAISHREE THAKUR, J.

1. The instant writ petition has been filed seeking a writ in the nature of Certiorari quashing the order dated 20.1.2015 passed by respondent No.3, whereby the representation of the petitioner for relaxation of her age and permission to appear in the interview against advertisement No. 7/2014 has been rejected and further for quashing of office order dated 12.2.2015, whereby the services of the petitioner has been ordered to be dispensed with as being illegal and arbitrary.

2. In brief, the fact are that the petitioner being born 22.5.1964 completed her educational qualifications i.e. Matriculation and then graduation from Panjab University Chandigarh. She is also Bachelor of Library and Information Science from Madurai Kamra University. She also

worked on the post of S.S. Mistress at Government S.S. Bhai Pheru Khalsa College, Faridkot. On the basis of her educational qualifications, the petitioner joined the services of the University on 3.3.2009 on the post of Library Restorer on contractual basis. The services of the petitioner were extended from time to time. In the year 2013, a CWP No. 1565 of 2013 was filed before this Court titled Hari Singh Nagra Versus State of Punjab and others. This writ petition was in the form of 'Public Interest Litigation', wherein a question was raised that candidates are working in the University without being appointed in accordance with the rules. The writ petition was disposed of on the basis of a statement made by the Senior Counsel for the respondent-University to the effect that the service rules and regulations will be drafted within a period of six months, the posts would be re-advertised and in case eligible or suitable candidates for the posts are not available, the posts will be re-advertised again and in the eventuality no eligible candidates are still available, the posts may be filled up on contractual basis for a period not exceeding one year on the whole. As per the statement made before this Court in the aforesaid writ petition, "the staff, teaching and/or non-teaching, if otherwise eligible to compete in regular selection based upon advertisement (as per para 2 above), may be granted age relaxation by the University to enable them to compete for such regular selection/appointment."

3. In pursuance of the judgment, advertisement No. 7 of 2014 was published inviting applications for filling up of the posts in the University and three posts of Library Restorers were also advertised. The age

relaxation as per the statement given in Hari Singh Nagra's case was given. The petitioner being fully qualified and having the requisite experience also submitted her application on 30.6.2014 for the post of Library Restorer, but she was not allowed to participate in the selection process on the ground that those contractual employees who were not eligible at the time of their initial contractual appointments are not eligible for age relaxation. The petitioner also came to be served with office order dated 12.2.2015 whereby her services were dispensed with and she was relieved from the University on completion of terms of her appointment. Aggrieved against the two orders mentioned hereinabove, the instant writ petition has been filed.

4. Mr. P.S. Khurana, learned counsel for the petitioner contends that in terms of the statement and the affidavit filed in Hari Singh Nagra's case (supra), the petitioner is entitled to age relaxation and her candidature could not be rejected outright and also urges that her services could not be terminated on account of the fact that regular selection still has not taken place.

5. Per contra, Mr. K.S. Sandhu, learned counsel appearing on behalf of the respondents submits that the petitioner had a back door entry who did not have the necessary qualification at the time when she was appointed as Library Restorer. It is argued that the writ petition of Hari Singh Nagra came to be disposed of with a direction that if staff teaching or non-teaching if otherwise eligible to compete in regular selection, may be granted age relaxation and the petitioner was not eligible at the time of her initial appointment. That being not eligible she would not be entitled to any

age relaxation.

6. I have heard learned counsel for the parties and have also perused the record of the case.

7. Admittedly, Hari Singh Nagra's case came to be disposed of by this Court on a written statement filed by the respondent-University and an assurance given that the University would be bound by its statement. Thereafter, applications were invited from eligible candidates for filling up posts on regular/adhoc/contract basis in the University/constituent Colleges of the University and three posts were advertised for the post of Library Restorer. The petitioner who had been working on the said post applied, but her application was not considered on account of being over aged. As per the statement that had been suffered in Hari Singh Nagra's case, it was agreed by the University that staff, teaching, non-teaching, if otherwise eligible to compete in regular selection may be granted age relaxation by the University to enable them to compete with such regular selection/appointment. The qualifications, as prescribed in the advertisement, for the post of Library Restorer is that a person who have 10+2 in any stream from recognized Board/Institution, Diploma in Library Science from recognized Institution and two years experience of working in University Library/College. The petitioner though appointed on contract basis worked on the post of Library Restorer from 2009 onwards, therefore, would have the necessary experience to be considered for appointment. The order rejecting the claim of the petitioner for consideration on the ground of her being over age is not sustainable. The impugned order mentions that the

petitioner was 44 years 9 months and 9 days of age at the time of her initial appointment in the University. The impugned order does not reflect as to whether the petitioner does not have the requisite qualification but has only rejected her candidature on the ground of being over age.

8. The petitioner admittedly had not attained the age of 45 as on the date when initial appointment had been given to her. It is to be noted that there were no rules framed at that point in time to determine the eligibility of a person. She would be entitled to the benefit of age relaxation, as per the statement suffered by the respondent-University before this Court in Hari Singh Nagra's case. The reasoning of the respondent, that Baljit Kaur did not fulfill the eligibility criteria at the first instance, therefore, would not be eligible for consideration now, cannot be upheld. A perusal of the statement that was made before this Court does not reflect that eligibility would be based on any other consideration other than experience and educational qualifications. In the opinion of this Court, a reading of para 4 of the judgment in Hari Singh Nagra's case would be that if the existing staff teaching or non-teaching have the necessary qualification, meaning thereby educational and experience to compete in regular selection, based upon advertisement issued, would be granted age relaxation by the University to enable them to compete for such regular selection/appointment. In other words, the age would not be a bar to be raised against the persons who were already part of the existing staff, teaching or non-teaching of the University.

9. In view of the above, this writ petition is allowed to the extent that the issue of age would not be raised against the petitioner in order to

deny her appointment, in case she fulfills all other eligibility criteria. However, in view of the fact that the respondent-University is in the process of filling up posts through regular selection, the impugned order relieving the petitioner from her service do not warrant any interference and the writ petition is dismissed to that extent.

10. The writ petition is partly allowed on the above terms.

3.4.2017
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No