

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

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CWP-29690-2017 (O&M)
Date of decision:22.12.2017

Tarandeep Singh

....Petitioner

Versus

Union of India and others

.... Respondents

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

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

P.B. BAJANTHRI, J. (ORAL)

In the instant writ petition, petitioner has challenged the prescription of age criteria for the post of Assistant Registrar in the respondent-institute. He being in service (Central Government Employee) is entitled to age relaxation in view of the consolidated orders on relaxation in upper age limit eligibility various categories of Government employees vide OM dated 27.03.2012. Perusal of rules of recruitment of the respondent-institute dated 25/26-09-2017 (Annexure P9) it is evident that age limit for direct recruits-not exceeding 35 years.

Petitioner's claim is for relaxation pursuant to OM dated 27.03.2012 issued by Government of India which is general instruction. Whereas, the post of Assistant Registrar in NIT, respondent-Institute is covered by recruitment rules (Annexure P9) which has got a statutory status. Therefore, unless and until clause 6 of the recruitment rules for the post of Assistant Registrar relating to age limit for direct recruitment that not

exceeding 35 years is not set aside by competent authority or court, petitioner cannot take shelter for the purpose of age relaxation under OM dated 27.03.2012. Supreme Court in the case of ***Nair Service Society versus Dr. T. Beermasthan and others*** reported in (2009)5 SCC 545 in para 48 held as under:-

“48. Several decisions have been cited before us by the respondents, but it is well established that judgments in service jurisprudence should be understood with reference to the particular service rules in the State governing that field. Reservation provisions are enabling provisions, and different State Governments can have different methods of reservation. There is no challenge to the Rules, and what is challenged is in the matter of application alone. In our opinion the communal rotation has to be applied taking 20 vacancies as a block.”

Therefore, in view of the principle laid down by the Supreme Court, recruitment of rules of Assistant Registrar in NIT insofar as prescription of age is concerned will prevail over the official memorandum dated 27.03.2012 which is an executive order. Thus, petitioner has not made a case.

Accordingly, CWP stands dismissed.

22.12.2017

pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons: Yes/No

Whether Reportable: Yes/No