

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

(1) CWP No. 3556 of 2015 (O&M)
Date of Decision: 12.09.2018.

Daljit Kaur

... Petitioner

Versus

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

... Respondents

(2) CWP No. 13826 of 2015 (O&M)

Boota Singh and another

... Petitioners

Versus

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

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. P.S. Khurana, Advocate,
for the petitioner(s) in both the petitions.

Mr. K.S. Sandhu, Advocate,
for the respondents in both the petitions.

JITENDRA CHAUHAN.J.

This judgment shall dispose of afore-mentioned two
civil writ petitions as common questions of law and facts arise therein.

By filing CWP-3556-2015, the petitioner seeks
quashing of order dated 12.02.2015 (Annexure P-8) vide which the
services of the petitioner on the post of Store Keeper on contract basis
have been dispensed with w.e.f. 28.02.2015.

In CWP-13826-2015, the petitioner seeks quashing of

orders dated 30.06.2015 (Annexure P-11 and P-12) passed by respondent No.3 vide which the services of the petitioners on the post of Helper on contract basis have been dispensed with w.e.f. 30.06.2015.

Learned counsel for the petitioner(s) submits that the petitioners have been held to be ineligible for selection on the ground that they were over age at the time of their initial appointments however, that issue stands settled by this Court vide judgment dated 03.04.2017 passed in CWP-3617-2015 titled as **“Baljeet Kaur vs. The Baba Farid University of Health and Sciences, Faridkot and others”**.

The operative part of the judgment passed in **Baljeet Kaur's case (supra)** reads as under:-

“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."

Learned counsel for the respondents states that he has instructions to state that the selection in pursuance to the advertisement No.7/2014 shall be finalized within eight weeks from today.

In view of above, the present petitions are disposed of in terms of judgment dated 03.04.2017 rendered in CWP-3617-2015. The petitioners be allowed to participate in the selection process. The issue of age would not be raised against the petitioners, who are still serving, in order to deny them appointment in case they fulfill all other

eligibility criteria.

Disposed of.

A photocopy of this order be placed in the file of
other connected case(s).

12.09.2018.
SN

(JITENDRA CHAUHAN)
JUDGE

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