

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

**Date of decision: 19.12.2018
CWP No.24003 of 2018**

1.

Rahul Thapar and another

...Petitioners

Versus

State of Haryana and another

...Respondents

2.

CWP No.22604 of 2018

Jyoti Punia

...Petitioner

Versus

State of Haryana and another

...Respondents

3.

CWP No.23357 of 2018

Sunita

...Petitioner

Versus

State of Haryana and another

...Respondents

4.

CWP No.26088 of 2018

Siya Bindal

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

**Present: Mr. B.S. Rana, Senior Advocate,
with Mr. Gagandeep Rana, Advocate,**

for the petitioners (CWP-24003-2018).

Mr. Sajjan Singh, Advocate,
for the petitioners (in CWP-22604, 23357 & 26088-2018).

Mr. Amar Vivek, Addl. A.G., Haryana.

Mr. Kanwal Goyal, Advocate,
for respondent-HPSC.

Ritu Bahri, J.

This judgment shall dispose of CWP Nos.24003, 22604, 23357 & 26088 of 2018 as common questions of law and facts are involved in all the petitions. For reference, facts are being taken up from CWP-24003-2018.

In these petitions, the petitioner(s) are seeking direction to respondent No.2-HPSC to open the website/portal/link for the candidates, who have attained the age of 21 years after 01.01.2018 and to extend the date of submission of online applications for recruitment of 166 posts of HCS (Executive Branch) and other allied services.

Learned State counsel has produced a file from the office of Chief Secretary, Haryana, a perusal of which shows that on 16.05.2018, after receiving requisition from Home and Transport Departments, a fresh requisition was to be sent to the Haryana Public Service Commission for filling up 166 posts of Haryana Civil Services (Executive Branch) for the year 2017 through competitive examination. In this meeting, it was further decided to make relaxation in the provisions of HCS (Executive Branch). It was further clarified that relaxation has been approved by the Chief Secretary as per the provisions of HCS (Executive Branch) Rules 2008. This file further shows that on 02.05.2018, it has been observed that approval for relaxation in the provisions of the rules be granted for

advertising these posts in the months of May/June instead of January. Said approval has been granted by the Chief Secretary on 18.05.2018. The relaxation has been granted under Rule 30 of the notification dated 13.02.2008 (for short '2008 Rules') (Annexure P-1) and necessity to grant this relaxation was that since 30.01.2018, data with regard to vacant posts was collected from all the departments. This time has been taken to collect the requisition from all the departments.

The above relaxation has been rightly granted to the respondent-Commission to issue the advertisement in May/June instead of January, 2018. After giving relaxation, the respondent-Commission in the present case, has issued advertisement dated 02.08.2018 (Annexure P-3). In the case of the candidates, who became ineligible as on 01.01.2018, the stand of the respondents is that initially, approval was granted to give them benefit of relaxation of age by taking the cut off date as 01.08.2018. This decision was taken by the Chief Minister and was to be approved by the Council of Ministers. Before the approval could be granted, this decision was withdrawn vide order dated 14.09.2018 (Annexure R-2).

A perusal of Rule 30 of 2008 Rules (Annexure P-1) shows that the Government has been given power of relaxation. The said rule reads as under:-

“30. Where the Government is of the opinion that it is necessary or expedient to do so, it may, by order, for reasons to be recorded in writing, relax any of the Provisions of these rules with respect to any class or category of persons.”

Vide aforesaid rule, the Government has been given power to give relaxation in any of the provisions of the rules by recording reasons with respect to any class or category of persons. The relaxation has been rightly

given under Rule 30 of 2008 Rules, to the Commission to advertise these posts in May/June instead of January because they had the valid reason to do so. In the same backdrop, the benefit of relaxation can be given to the candidates, who became ineligible as on 01.01.2018 by extending the cut off date as on 01.08.2018, as this relaxation is only to be made applicable in this selection process, which was initiated in August instead of January.

In the present case, the petitioners have approached this Court on 17.09.2018 and the last date for submission of application forms was 14.09.2018. Therefore, their applications were not being accepted by the Commission on its website. There is no delay on the part of the petitioners to approach this Court.

This Court is of the view that the petitioners, who became eligible after 01.01.2018 till 01.08.2018 have a legitimate right to be granted the benefit of relaxation under Rule 30 of 2008 Rules as they form separate class/category of persons. This benefit can be given to them for reasons to be recorded in writing. In the present case, petitioners have approached this Court immediately after the cut off date was over.

Next argument of learned State counsel is that as per Rule 12 (2) of these Rules, no person is allowed to sit in the examination, who is less than 21 years or more than 40 years of age as on first day of January next preceding the last date appointed by the Commission for submission of application forms.

This argument is liable to be rejected, as this condition can only be made applicable if, the advertisement is issued in January of the year. As per Annexure III of the HCS (Executive Branch) Rules, 2008 (Annexure P-1), requisition has to be sent to the Commission by December and they have

to issue advertisement in January inviting applications from the prospective eligible candidates. Since the advertisement has not been issued in January, cut off date for eligibility cannot be taken to be January. It has been issued in August, 2018, which makes out a case for grant of relaxation to those candidates, who became eligible between 01.01.2018 to 01.08.2018 as per Section 30 of 2008 Rules (Annexure P-1).

In view of the said fact, a direction is given to the respondent-Commission to accept the application forms of the petitioners as well as all other candidates, after issuing prior public notice that all the candidates, who are eligible till 01.08.2018, can apply for the above said posts.

All the petitions i.e. CWP Nos.24003, 22604, 23357 & 26088 of 2018 are allowed accordingly.

19.12.2018
ajp

(RITU BAHRI)
JUDGE

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