

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.28048 of 2018

Date of Decision:-31.10.2018

Baljinder Singh & Ors.

.....Petitioners.

Versus

Secretary to Government of Punjab & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Manoj Gorkehl, Advocate &
Mr. Alok Singh, Advocate for the Petitioners.

JASWANT SINGH, J.

Thirty Five(35) Petitioners have approached this Court, seeking a writ in the nature of Certiorari for quashing the impugned advertisement dated 08.11.2016 (P-3) issued by respondent-Department of Home for the post of Jail Warders, on the ground that they were eligible under the previous advertisement no.2 issued on 12.10.2011 (P-1), however, the same is entangled in litigation and now a fresh advertisement dated 08.11.2016 (P-3) has been issued, whereby no provisions for candidates such as the petitioners has been made for protecting them, as they have now become over-age.

Learned Counsel for the petitioners has argued that vide advertisement dated 12.10.2011 (P-1) the respondent had invited applications from eligible candidates for filling up of 527 posts of Jail

Warders by providing age limit as between 18 to 37 years for different categories. However, despite the fact that the petitioners had cleared the physical test etc., their result was not declared and ultimately vide public notice dated 05.06.2014, the said recruitment exam was cancelled. Aggrieved against the same, numerous writ petitions were filed by the candidates and during the pendency of the said writ petitions, a fresh advertisement dated 08.11.2016 (P-3) has been issued, whereby the qualifications have been increased from 8th to 10+2 and also reducing the age limits from existing 18 to 35 years under various categories. It is submitted that the said action of the respondents to reduce the age limit and not granting relaxation to the candidates such as petitioners, who are embroiled in the litigation pertaining to previous selection, has led to great prejudice being caused to them and, therefore, the advertisement Annexure P-3 is liable to be quashed, being arbitrary and violative of principles of natural justice.

After having scrutinized the arguments raised by the Learned Counsel for petitioner and perusing the paper book, this Court is of the opinion that instant writ petition is without any merit and therefore deserves to be dismissed.

Admittedly, the petitioners had applied for the posts of Jail Warders under the advertisement issued in the year 2011. It is also an admitted position that many candidates, who were aggrieved against the cancelling of the recruitment process had preferred writ petitions before this Court, seeking fair selection under the said advertisement itself. It is also not disputed before me, now, by the counsel for the petitioners that the said writ petition stands disposed of vide a detailed order passed in CWP

No.18789 of 2014 on 17.12.2016, whereby the public notice, cancelling the recruitment process was quashed and the recruitment/appointing authority was directed to prepare a fresh merit list as per law. Thus, it is seen that the petitioners and other candidates have been ordered to be considered under the said advertisement itself. Consequently, the petitioners have not suffered any prejudice by issuance of instant advertisement, as they have fair right of consideration under the advertisement issued in the year 2011 and resultant recruitment process.

By making the said litigation as an excuse for quashing a fresh advertisement or to seek a direction from this Court to grant benefit of age relaxation to petitioners, is something, which this Court does not understand. It is not disputed before me that the advertisement is as per the Statutory Rules governing the posts in question. It is also not in dispute that as per the Statutory Rules, the State Government has reduced the age from 37 years to 35 years under various categories. It is settled position of law that it is for the State/employer to decide its requirement and thereafter issue advertisement. If the employer feels that it would be served better by reducing the age of Jail Warders then, this Court has no power to direct to increase the age of candidates, unless it is proved that the decision is arbitrary and so un-conscionable that it strikes at the Fundamental Rights of affected persons. No such thing is either shown or argued. Infact, the Statutory Rules, which govern the posts in question are not even under challenge and rather, the sole claim in the writ petition is for grant of age relaxation to the petitioners as they have become over-age, by relying upon a litigation, which has infact been decided in their favour.

It is settled law that a writ of Certiorari or Mandamus can only

be issued in case there is any violation of Fundamental Rights of the petitioners or they have a vested right, which stands curtailed by the action of respondents. Nothing of such nature has been shown or argued before this Court, so as to warrant interference.

Resultantly, finding no merit in the instant writ petition, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

October 31, 2018
Vinay

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No