

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(120)

CWP No. 21487 of 2020
Date of Decision : 22.12.2020

Amandeep Sharma

...Petitioner

Versus

State of Punjab and another

...Respondents

(through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vivek Sharma, Advocate for the petitioner.

Harsimran Singh Sethi J. (Oral)

The present petition has been filed challenging the Advertisement dated 27.11.2020 (Annexure P-9) vide which the respondents have advertised 4 posts of Law Officers at Patiala/Mohali.

Learned counsel for the petitioner submits that the petitioner has been rendered ineligible for competing against the Advertisement dated 27.11.2020 (Annexure P-9) as the maximum age prescribed for appointment is 37 years in respect of General Category and as the petitioner, who belongs to the General Category, has already crossed the maximum age of 37 years prescribed in the Advertisement dated 27.11.2020 (Annexure P-9).

Learned counsel for the petitioner argues that the action of the respondents in prescribing the maximum age as 37 years is arbitrary as the respondents themselves had advertised the posts of Law Officers on an

earlier occasion wherein, the maximum age for applying was 44 years. Learned counsel submits that reducing the maximum age to 37 years by the respondents while issuing Advertisement dated 27.11.2020 (Annexure P-9), is arbitrary and illegal.

I have heard learned counsel for the petitioner and have gone through the record with his able assistance.

Learned counsel for the petitioner very fairly concedes that as per the Punjab Civil Services Rules, which govern the service conditions of employees in State of Punjab, the maximum age for direct appointment is 37 years. The said rule providing the maximum age as 37 years for direct recruitment is not under challenge in the present writ petition.

Once, it is a conceded position that the maximum age for direct appointment in a Government service in the State of Punjab, as prescribed under the statutory rules governing the service is 37 years, the prayer of the petitioner that the prescription of the said eligibility condition in the advertisement is bad, cannot be accepted. The maximum age for appointment in a Government service is not only for the petitioner but for everyone, who is considered for employment within the State of Punjab. That being so, the prayer of the petitioner that the prescription of maximum age of 37 years for competing for the post of Law Officer as advertised vide Annexure P-9 is arbitrary, cannot be accepted and the prayer is declined.

Learned counsel for the petitioner further submits that on an earlier occasion, the same post was advertised with the maximum age of 44 years. Be that as it may, if any illegal action, contrary to the rules, has been taken earlier, the same will not give a right to the petitioner to claim the same benefit again though the same is contrary to law. Further, this Court

cannot be party to an illegality and allowing the prayer of the petitioner would amount to passing an order against the statutory provisions, which will result in perpetuating the illegality, which is impermissible.

That being so, the prayer of the petitioner to allow him to compete for the post as advertised vide Annexure P-9, even though he is not eligible, cannot be accepted and the writ petition is accordingly dismissed.

December 22, 2020
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(HARSIMRAN SINGH SETHI)
JUDGE

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