

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

LPA No. 1762 of 2019 (O&M)
Date of Decision: 17.02.2020

Krishan KumarAppellant

versus

Maharishi Dayanand University, Rohtak and others ..Respondents

CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present : Mr. R.K.Malik, Senior Advocate with
Mr. Sunil Hooda, Advocate for the appellant.

RAVI SHANKER JHA, CHIEF JUSTICE (oral)

This appeal has been filed by the appellant being aggrieved by the order dated 27.08.2019 passed in Civil Writ Petition No. 15940 of 2018 dismissing the petition filed by the petitioner-appellant assailing his non-selection on the post of Library Attendant.

2. It is contended by learned counsel for the appellant that the appellant-petitioner is a scheduled caste candidate and applied for appointing him on the post of Library Attendant under the said category. It is submitted that admittedly the petitioner was 47 years of age at the time when he applied for and was, therefore, 5 years above the cut off age of 42 years prescribed for the general category candidates.

3. Learned counsel for the appellant submits that being a scheduled caste candidate he is entitled to age relaxation of 5 years. It is submitted that in such circumstances on granting such relaxation the appellant would become eligible and being most meritorious of all candidates, who had applied for appointment on the post of Library Attendant, was entitled to be selected on the said post. It is submitted that contrary to the aforesaid, the respondents have denied appointment to the

appellant on the ground that the post sought to be filled up is of a general category candidate and in case the appellant avails of the benefit of age relaxation as a scheduled caste candidate for consideration of his claim on the said post, he cannot be adjusted or appointed against the general category post after availing of such relaxation.

4. Learned counsel for the appellant submits that the learned Single Judge has failed to take into notice and consideration the decision of the Supreme Court rendered in the case of ***Jitendra Kumar Singh and another v. State of U.P. and others*** Civil Appeal No. 74 of 2010 wherein the Supreme Court has held to the contrary. Learned counsel for the appellant submits that the appellant has been working on the post of Library Restorer for the last 7 years and has also filed a certificate of experience to that effect as Annexure P-7 along with the petition. He further submits that in such circumstances as he has already rendered the service on the post of Library Restorer, which post according to him is equivalent to the post of Library Attendant, the age relaxation for consideration of his claim on the said post should have been accorded and awarded to the appellant by the respondent- authorities.

Learned counsel for the appellant further submits that all these aspects have not been taken into consideration by the learned Single Judge and therefore, the impugned order is liable to be set aside.

5. We have heard learned senior counsel for the appellant and perused the record.

6. From a perusal of the order passed by the learned Single Judge, it is evident that the learned Single Judge has placed reliance and taken note of a circular issued by the State of Haryana dated 26.04.2018, which is quoted in the impugned order. As per the said instructions, it is evident that a reserved candidate, who wishes to be adjusted/appointed against a general

category candidate, has to fulfill the criteria and the eligibility qualification prescribed for the general category candidate. The circular specifically provides that in cases where a reserved category candidate availed relaxation in age qualifying norms etc. then he/she will be treated against the reserved category and not against the general category.

7. Learned Single Judge quoting the aforesaid instructions of the State Government has dismissed the petition on the ground that admittedly the appellant-petitioner seeks appointment on the post reserved for general category candidate after being awarded age relaxation as available to a reserved category candidate and admittedly he also does not fulfill the eligibility criteria prescribed for a general category candidate.

8. Having heard learned counsel for the appellant and examining the submissions of the appellant, we are of the considered opinion that the learned Single Judge has not committed any illegality or perversity as the petition has been decided strictly in accordance with the instructions dated 26.04.2018 issued by the Government of Haryana, according to which the appellant is not entitled to be adjusted or appointed against the post of general category candidate.

9. As we do not find any illegality or perversity in the impugned order passed by the learned Single Judge, the appeal filed by the appellant is dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

17.02.2020

ravinder

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