

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of decision : December 18, 2020

1. CWP No. 29010 of 2019

P.S.Dahiya

....Petitioner

versus

State Bank of India and another

....Respondent

2. CWP No. 33520 of 2019

Bhagwan Dass Sahni

....Petitioner

versus

State Bank of India and another

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present: Mr. DK Tuteja, Advocate, for the petitioners

Mr. Akash Yadav, Advocate for

Mr. Abhinav Gupta, Advocate, for the respondents

Fateh Deep Singh, J. (Oral)

The matter has been taken up through Video-conferencing on account of outbreak of pandemic COVID-19.

The above two civil writ petitions one bearing CWP No. 29010 of 2019 moved by P.S. Dahiya and the second one bearing CWP No. 33520 of 2019 moved by Bhagwan Dass Saini by invoking Article 226 of the Constitution of India seeking issuance of a writ, order or direction in the nature of mandamus directing the respondent-State Bank of India and its functionaries (constituted under the State Bank of India Act, 1955, in short 'the Act') having been filed over the same very cause of action and revolving around similar facts and therefore, on account of consanguinity of the facts and law are being disposed off together by this common judgment.

The brief background is that both the petitioners, who admittedly are senior citizens, upon their retirement from various posts were taken on the panel of **Registered Valuers** of the respondent Bank for assessing of different classes of assets. The qualifications and requirements of the same are laid down under the Wealth Tax Act, 1957, under the Security Interest (Enforcement) Rules, 2002 including the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short SARFAESI Act). It is with much elance, the petitioners have claimed that they are already on the panel of various reputed institutions and have sufficient work experience and have been

carrying on with their duties diligently to the entire satisfaction of the Bank. It is claimed that keeping in view the petitioners to be invaluable asset to the banking institution inspite of being senior citizens, their empanelment was extended from time to time and as on date was still so. Perturbed over the advertisement of the respondent in view of the policy guidelines under Clause 2.5 circulated in the letter of the Chief General Manager of the respondent-Bank Annexure P/18 emphasizing that the maximum age limit for a valuer to remain on the panel shall be 70 years, the petitioners have come in these petitions challenging the very purpose of the same.

The respondent-Bank in its detailed reply consciously took the plea that as per the policy guidelines effective with effect from 1.10.2019, it was decided that valuation would be assigned to valuers empanelled under this policy prescribing maximum age limit of the valuer to be 70 years. It was emphasized that the respondent Bank reserves the right to formulate a criteria for empanelment and there is no illegality or question of violation of Article 14 of the Constitution of India as claimed by the petitioners having resort to the various provisions of the law under the Act citing numerous judgments of the Courts in India accepting the fact that upon

reconsideration of the policy by the respondent-bank, advertisement has been given for empanelment of valuers for the period from 1.10.2019 to 31.12.2022. It is termed that the contentions of the petitioners were uncalled for and do not sustain and sought dismissal of the petitions.

Heard Mr. DK Tuteja, Advocate, for the petitioners; Mr. Akash Yadav, Advocate for Mr. Abhinav Gupta, Advocate, for the respondents and perused the records.

There is not much factual disparity between the two sides and all that trickles down from the submissions is that whether such an action of the respondent bank is commensurate with the law or not. The Apex Court in the case of **Amil Lal Bhat (Dr) v. State of Rajasthan, (1997) 6 SCC 614**, considering similar preposition have held that prescribing an upper age limit is not per-se arbitrary and going into dearth the discharge of functions of a valuer had considered that as is the nature of job of a valuer, he is supposed to visit the site which may be at great distance in hostile terrain and therefore, his physical fitness cannot be lost sight of. Though the Court was of the opinion that upper age limit cannot be fixed by mathematical precision but it has to be taken into account over the physical requirements as well have drawn corollary from the relative

retirement age of the employees in the bank and by the own admission of the petitioners, both of them are above 75 years of age on the date of filing of the petitions. This ratio was relied upon by the High Court of Judicature at Bombay in its decision passed in **OS-WP-LD-VC-NO.188 OF 2020** in case of **Practicing Valuers Association (India) and others vs State Bank of India and another, decided on August 18, 2020**. Reverting back to the present case, Mr. Tuteja, learned counsel for the petitioners could not come upon any substantial reasoning which could stir the conscience of the Court so that this advertisement and the intent behind it could be dubbed to be arbitrary or otherwise violative of Article 14 of the Constitution of India. This Court is of the opinion that such a decision by the respondent-bank to impose maximum age limit for empanelment of valuers is totally a matter of discretion and policy confined to the bank and thus, finding that there is neither any granted assessment to conduct valuation exercise and is at the sole discretion, whims and fancies of the bank. More-so, the exercise of writ jurisdiction by this Court though is unbridled and cannot be put to use impinging upon internal functioning and administrative decision of the bank. More-so when it is claimed by the respondent counsel that it has been done so after getting inputs

from Stressed Assets Resolution Group of SBI and apparently is nothing but to ensure efficiency and precision in such matters which are of much importance in this ever growing competitive world. Thus, in the light of the foregoing discussion, this Court does not feel inclined to show indulgence. Both the petitions are hopelessly meritless and needs to be dismissed. Ordered accordingly.

December 18, 2020

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(Fateh Deep Singh)

Judge

<i>Whether speaking/reasoned ?</i>	Yes/No
<i>Whether Reportable ?</i>	Yes/No