

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-9172-2021(O&M)

Date of decision: 29.04.2021

Bal Ram

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

Ms. Kirti Singh, DAG, Haryana

ANIL KSHETARPAL, J. (ORAL)

Through this writ petition, the petitioner prays for issuance of a writ in the nature of Certiorari to quash the order dated 26.03.2021 whereby the petitioner's claim for extension in the age of retirement beyond the period of 58 years has been declined. The petitioner worked as a Guest Teacher purely on contractual basis. The age of retirement of a Guest Teacher provided in the Haryana Guest Teachers Service Act, 2019. The Director General Elementary Education, Haryana, has pointed out that there is no provision to extend the age of retirement i.e 58 years under the Haryana Guest Teachers Service Act, 2019.

Ms. Kirti Singh has pointed out that as per Rule 8(36) of the Haryana Civil Service (General) Rules, 2016, the phrase 'Government employee' does not include persons appointed on contractual basis. Rule

8(36) is extracted as under:-

“ **Rule 8(36) “Government employee”** except as otherwise provided in these rules of any other rules means a member of State Services Group A, B, C or D whose—

(i) conditions of service are regulated by rules made by the Governor of Haryana under the proviso to article 309 of the Constitution of India;

(ii) appointment is made on regular basis in connection with the affairs of Government of Haryana; and

(iii) pay is debited to Consolidated Fund of the State of Haryana except when serving on foreign service or deputation;

but it shall not include persons—

(1) in casual or daily-rated or part-time employment;

(2) paid from contingencies/contingent charges;

(3) of work-charged establishment; and

(4) appointed on contract basis;”

Learned counsel representing the petitioner contends that as per the instructions issued by the Government, a disabled employee is entitled to be considered for the grant of extension. He further submits that in the instructions, there is no distinction between a ‘regular employee’ and a ‘contractual employee’.

This Bench has considered the submissions. On careful reading of the instructions dated 21.04.2008 (Annexure P-3), it is apparent that the competent authority has the discretion to grant the extension or not. It has been provided in clause (2) that on receipt of medical report from the Board, the competent authority shall take a decision to grant or not to grant extension in the service to the concerned physically challenged employee.

Still further, an employee after having attained the age of

superannuation cannot claim as a matter of right/entitled that he must kept in the service after attaining the age of retirement. The instructions, itself, give a discretion to the competent authority. Therefore, such an extension is in the nature of a concession. Learned counsel representing the petitioner has failed to draw attention of the Court to any circumstances to prove that such discretion has been exercised arbitrarily. Hence, no ground to issue the writ, as prayed for, is made out.

Dismissed.

29.04.2021
rekha

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No