

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 22596 of 2020
Date of decision: 09.09.2021

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Seema Rani

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Parth Goyal, Advocate,
for the petitioner.

Mr. Aman Bahri, Addl. A.G., Haryana.

(Proceedings are being conducted through video conferencing
as per instructions).

G.S.SANDHAWALIA, J. (Oral)

The petitioner challenges the order dated 18.05.2017 (Annexure P-7) whereby, her case for appointment as a Post Graduate Teacher (Mathematics) was rejected on the ground that she was an overage candidate of 48 years 8 months and 30 days as on 28.06.2012 and the relaxation could not be provided under the Haryana State Education School Cadre (Group B) Service Rules, 2012 beyond a period of 5 years. The relevant Rule reads as under:-

“5. No person shall be appointed to the post in the service by direct recruitment on contract basis who is less than eighteen years or more than forty years of age or such age as fixed by the Government, from time to time on the last date of submission of application to the recruiting agency.

Provided that teachers working in privately managed Government aided, recognised and Government schools, shall be given age relaxation in

upper age limit to the extent of service rendered by them as a teacher subject to a maximum of five years. However, the said relaxation shall be as a onetime measure only.”

Counsel for the petitioner has vehemently submitted that on an earlier occasion, the petitioner's application had been rejected against advertisement no. 1 of 2012 on account of the fact that she did not have the eligibility of 4 years' experience in school cadre on 01.02.2013 as per Annexure P-1, which was an objection raised by the Haryana School Teachers Selection Board at that point of time. It is her case that she filed CWP No. 6323 of 2013, which was allowed on 19.11.2014 (Annexure P-2) whereby, the said order was quashed and she was held entitled for consideration to the post of PGT (Mathematics). It is further submitted that the said order was further upheld in appeal in LPA No. 707 of 2016 on 02.05.2016 (Annexure P-3). Therefore, it is submitted that the decision of the respondents at this stage to hold her ineligible on an altogether different ground is without any basis and *mala fide* as such.

Reliance is also placed upon ***LPA No. 1220 of 2015, State of Haryana and others vs. Subhash Chand decided on 13.11.2019*** (Annexure P-12) wherein, benefit has been given to other employees and directions have been issued for appointment of candidates who had crossed the age of 40 years. The order of Single Judge at that point of time had been upheld on the strength of instructions dated 25.06.1981 and 12.02.1982 whereby, it was provided that the benefit of relaxation will be given if a candidate had been registered with the Employment Exchange and has become overage provided the said person had done B.Ed./M.Ed. It is not disputed that the said instructions have also been withdrawn on 14.06.2017, which was the

reason which also prevailed with the Division Bench at that point of time as the candidates were having last chance of becoming Government employees.

In the present case, it is to be noticed that the petitioner is already aged 57 years and she is to retire on 30.09.2021 and the futility of this litigation is to come to an end. The petitioner had herself filled up the form (Annexure P-15) knowing that she was not eligible and had sought relaxation as to the extent of 8 years 8 months and 30 days at that point of time. She was well aware that though the Teachers Selection Board, had, on the scrutiny of examination held, came to the conclusion that she did not complete 4 years' experience, but she was also aware that she was over age on the closing date. This fact was never brought to the notice of this Court at that stage and the litigation was pressed successfully. It is not disputed that even when the impugned order was passed on 18.05.2017 (Annexure P-7), instead of challenging the same at that point of time, the contempt petition was pressed. Subsequently, the present writ petition has been filed after more than 3-1/2 years on 22.12.2020. Though there is no limitation prescribed for filing a writ petition but is expected of an eager litigant, as such, to agitate for his/her grievance at the earliest and not elongate the litigation and for this reason also, this Court is loath to exercise its extraordinary writ jurisdiction.

Counsel for the petitioner has tried to justify that an attempt was made for revival of the contempt petition in order to enforce the order of the Single Judge and, thus, the delay. However, a perusal of the orders passed in COCP No. 586 of 2017 on 13.11.2018 (Annexure P-8) would also go on to show that the Single Judge had noticed that the Board was only a

recommending authority and the responsibility lies with the Department of Education which is to verify and consider the eligibility as per statutory Rules. The relevant portion reads as under:-

“It goes without saying that the Board is only a recommending authority and the responsibility is of the Department of Education which, prior to finally appointing the candidates recommended verifies the documents and consider eligibility as per the Statutory Rules governing the service, which, unfortunately, the petitioners does not fulfill as she is overage and would not become eligible even if relaxation is granted.

In view of the above, finding no merit in the present application, the same stands dismissed.”

Keeping in mind the above, this Court is of the opinion that once the petitioner does not fulfil the eligibility conditions as per the statutory Rules, no indulgence can be granted to her in any manner.

Accordingly, the writ petition stands dismissed.

09.09.2021
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No