

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

LPA No. 672 of 2022

Date of Decision: 29.11.2022

Jagmohan and others

.....Appellants

Vs.

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

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

G.S.SANDHAWALIA, J. (ORAL)

Present appeal has been preferred against the order dated 26.02.2021, passed by the learned Single Judge, whereby the Civil Writ Petition No. 4564 of 2021, filed by the appellants has been dismissed, in which the relief of upper age relaxation upto 45 years has been sought.

The claim for relaxation of the upper age upto 45 years was sought on the ground that the appellants had served as *Sikhia* Providers and claimed parity with the Government employees by way of a writ in the nature of '*mandamus*'.

Learned Single Judge noticed that as per the terms of the advertisement dated 28.02.2020 (Annexure P-2), relaxation was only to be granted to the employees of Punjab and others States or Central Government upto 45 years. Admittedly, as per the terms of the advertisement the age limit was 18 to 37 years as on 01.01.2020 for the 60 posts of Punjabi Master/Mistress for Border Area.

Accordingly, the learned Single Judge came to the conclusion that they were employees of the Contractor and have served only in Government institutions as contractual employees and not being Government employees. They had been given the benefit of exemption appearing from the Punjab State Teacher Eligibility Test (PSTET), in view of the experience as *Sikhia* Providers and resultantly, it was held that relaxation cannot be sought by them as a matter of right and where it was deserved and permissible the requisite relaxation has already been granted.

A review petition bearing RA-CW-82-CW-2021, was also filed, on the ground that the appointments of *Sikhya* Providers were made by '*Pendu Sikhia Vikas Kameti*' (Rural Education Department Committee), and not by any Contractor or any outsourcing agency.

The said submission also did not find any merit by the learned Single Judge and the review petition was dismissed by him on 26.04.2022. Resultantly, the present Letters Patent Appeal has been filed.

For issuance of a writ in the nature of '*mandamus*', basic principle would be that there is a statutory provision which is sought to be enforced or of a policy which has been adopted by the State, on the basis of a legal right.

Learned counsel for the appellants could not point out any such policy on the basis of which a writ of '*mandamus*' can be issued for the benefit of relaxation of the upper age limit.

It has time and again been observed that the recruiting agency has to see which is the age limit of its employees it wishes to recruit and not for the Court to substitute this. If a relaxation is being given to the

government employees who seek appointment to further their career prospects, no fault as such can be found to have kept the upper age limit of 45 years while restricting the age of others between 18 to 37 years.

Apparently, the appellants were beyond the age of 37 years but still applied and sat in the written test and are stated to have been rejected at the time when they were called for interview on the strength of merit but being overage.

It is thus, apparent that the appellants themselves took a chance as such and were well aware of the fact that they were overage and not eligible as per the terms and conditions of the advertisement. On the strength of their merit ranking they had got a cause of action which had accrued to them but they were never eligible as per the terms and conditions, and they had never challenged the said fixation of age at an earlier point of time on the ground that it is arbitrary.

In such circumstance, we do not see any reason to interfere in the impugned order of the learned Single Judge.

Consequently, the appeal is dismissed.

(G.S. SANDHAWALIA)
JUDGE

November 29, 2022
nitin

(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes
Whether Reportable	No