

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

CWP-23769-2018 (O&M)

Date of decision: August 24, 2022

Rajesh Kumar

.....Petitioner

versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Anil Ghanghas, Advocate for the petitioner.

Mr. R.D. Sharma, DAG Haryana.

ARUN MONGA, J. (ORAL)

CM-16897-CWP-2018

For the reasons stated in the application, the same is allowed.

Amended writ petition is taken on record, subject to all just exceptions.

Main case (O&M)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Mandamus directing respondent No.2 to consider the candidature of the petitioner and allow him to participate in the selection process of advertisement dated 26.08.2018 (Annexure P-3) on the basis of posts advertised on 22.02.2014 (Annexure P-1) by granting relaxation in the age accordingly.

2. Pledged case is that pursuant to advertisement dated 22.02.2014 (Annexure P-1), petitioner being eligible applied for Class-IV post. No process was further initiated *qua* the said advertisement. After a gap of more than 4 years, on 26.08.2018, respondent No.2 again invited applications to fill

up 18218 posts including the earlier advertised posts. When the advertisement of 2014 was issued, petitioner was 39 years of age and the maximum age was prescribed as 40 years. But in 2018, petitioner became overage by 2 years, being a General category candidate.

3. I have heard rival contentions of the parties and perused the record.

4. The selection process assailed herein pertains to an advertisement dated 05.09.2011, followed by those in 2014 and eventually in 2018 owing to change in the selection criteria as per the Cabinet meeting held on 14.09.2017 (Annexure R-2) for conducting written examination for Group 'C' and 'D' posts and entire selection process under the purview of Haryana Staff Selection Commission. Petitioner was though eligible at the first stage when the advertisement was issued, but by sheer postponement of selection process from time to time, he became over-age and had been rendered ineligible to take written examination. That apart, petition was subsequently amended to assail the said cabinet decision as well.

5. Be that as it may, what emerges is that even if the petition is to be accepted as on today, by sheer lapse of time, the equities are tilted highly in favour of those candidates, who were selected in the year 2018 and even working ever since. On the other hand, they are not even party in case one has to adjudicate on the merit of the cabinet decision before any adverse view thereof is taken, but on the other hand, petitioner is also not even of employable age and though he had made a prayer for provisional participation during pendency of the writ petition, the same was not acceded to.

6. In the entirety of the situation, I am of the view that since it is not a case of any hostile discrimination and/or *mala fide* and the selection process as per the decision of the cabinet decision was carried out across board for all the candidates, who were found eligible and appeared for the same and selections have attained finality, there is no ground to interfere, at this stage.
7. Dismissed.
8. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

August 24, 2022
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No