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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-24697-2022

Date of Decision: 28.10.2022

VED PRAKASH AND ORS.

..... Petitioners

Versus

STATE OF HARYANA AND OTHERS

..... Respondents

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present : Mr. P.R. Yadav, Advocate for the petitioners.

Ms. Palika Monga, DAG, Haryana.

G.S.SANDHAWALIA, J. (Oral)

1. The present petition filed under Article 226 of the Constitution of India in the nature of certiorari for quashing maximum age limit of 42 years for entry into Government Services as mentioned in Government instructions dated 25.03.2022 (Annexure P-4) and para No.8.4 of the notification dated 30.06.2022 (Annexure P-5) on the ground of being illegal and ultra vires of the provisions of Article 14 and 21-A of the Constitution of India.

2. Reliance has been placed upon the judgment of the Apex Court in Civil Appeal No.2016 of 2022 titled as '**High Court of Delhi Versus Devina Sharma**' decided on 14.03.2022 (Annexure P-19).

3. Learned counsel for the petitioners has submitted that the

petitioners are aspirants for contractual posts in the Haryana Kaushal Rozgar Nigam Limited i.e. respondent No.2 which have been advertised for TGT Sanskrit and Social Studies/Social Sciences in the Haryana Education Department, the cut off date of which is 05.11.2022. It is pointed out that as per the notification dated 30.06.2022 (Annexure P-5), the policy qua the Deployment of Contractual Persons Policy 2022, provides for deployment of manpower in any indenting organization that are of an auxiliary or supporting nature, on contractual basis. As per Clause 8.4, the lower age limit shall be 18 years and the upper age limits is to be 42 years. Further condition has also been prescribed that nobody can be allowed to retain on job role beyond the age of 60 years subject to sound health and fitness.

4. Learned counsel for the petitioners has tried to convince this Court that on the earlier occasions, there was no recruitment for the said posts for several years and the petitioners have become overage as petitioner No.1 had completed the age of 42 years on 25.05.2022, petitioner No.2 on 23.02.2020 and petitioner No.3 on 01.09.2022. Thus, the applicants have become ineligible and therefore, the cause of action has arisen to them.

5. We are of the considered opinion that it is for the State to prescribe the cut off age which is to be done both on the contractual side and on the regular side. Also for similar posts for regular employment as per the notification dated 25.03.2022 (Annexure P-4), the age limit to entry in Government Service is also prescribed between 18 to 42 years. It is, thus, for the State who wants trained personnel for employment and

also to prescribe the criteria for persons it wishes to employ and it is not within the domain of the Court to substitute the same in the absence of any arbitrariness or capricious reasons.

6. On advance notice learned State counsel has put in appearance and relied upon the judgment of the Apex Court passed in Writ Petition (Civil) No.1410 of 2020 **‘Rachna and others Vs. Union of India and another’ decided on 24.02.2021**. In the said case the writ petitioners were aspirants for the Civil Services (Preliminary) Examination, 2020 and were seeking additional attempt, as they had become barred from attempting the examination in future on account of exhausting of available attempts, on account of the age bar. The case was also based on the ground that Covid-19 pandemic had come in and, therefore, they had lost their right as such in the intervening period. The Apex Court, accordingly, came to the conclusion that though they may have legitimate expectations, but the same did not give any legitimate right to them to claim additional benefit/attempt, which otherwise was not permissible under the scheme of the Rules, 2020. Resultantly, it was held that judicial review of a policy decision as such are to be done for limited purposes and only where there is arbitrarily, capricious or not informed reasons, the Court would as such interfere. Merely because some candidates had faced some inconvenience or impediments, an additional chance was not liable to be granted. It was held that in the peculiar facts and circumstances it would be within the jurisdiction of the State as such and it was for the Government to exercise its discretion to overcome any such unprecedented situation.

7. Apparently, in the present case petitioners have never approached the State for the redressal of the their grievance at the first instance, though the posts were advertised on 07.10.2022 and the number of posts has been extended by the corrigendum dated 09.10.2022 (Annexure P-10).

8. In such circumstances, we are of the considered opinion that no case is made out to interfere with the decision of the State as it is not for the individual candidates to question the cut off date made and it is a matter of principle and policy of the State, which is not likely to be interfered with. In such circumstances, we do not find any merit.

9. The present petition is dismissed in limine.

(G.S.SANDHAWALIA)
JUDGE

(JAGMOHAN BANSAL)
JUDGE

28.10.2022
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>