

CWP-5604-2023

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(144)

CWP-5604-2023

Date of decision:- 20.03.2023

Ramesh Kumar

... Petitioner

Vs.

The State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Parmender Singh, Advocate for the petitioner.

SUVIR SEHGAL J. (Oral)

By way of present petition, petitioner has sought issuance of a writ in the nature of mandamus for a direction to the respondents to relax the upper age limit for appearing in the examination for recruitment to the post of Assistant District Attorney (ADA) in Prosecution Department, Haryana advertised vide No.14/2023 dated 22.02.2023, Annexure P-1.

On an advance notice, Mr. Saurabh Mohunta, DAG, Haryana, has appeared on behalf of respondents No.1 and 3 and Mr. Govind Tanwar, Advocate with Mr. Kanwal Goyal, Advocate has put in appearance on behalf of respondent No.2-HPSC.

Counsel for the parties have been heard at considerable length.

The services of ADAs are governed by the Haryana State Prosecution Legal (Group-B) Service Rules, 2001 (for short – “the 2001 Rules”). Rule 5 *ibid* lays down the age criteria for candidates to appear in the examination to be conducted by the recruiting agency. Rule 5 *ibid* is extracted and reproduced as below:-

“5. Age.- No person shall be appointed to any post in the Service by direct recruitment who is less than twenty-one years or more than forty-two years of age on the last date of submission of applications to the Commission or any other recruiting authority.”

The upper age limit for appearing in the examination, which at an earlier point of time was 40 years has been increased to 42 years by way of an amendment made in the 2001 Rules by virtue of Notification dated 25.02.2022. This has been carried out in pursuance to instructions issued by the Government of Haryana.

As the upper age limit for appearing in the examination flows from the statutory rules, which have not been challenged, the same cannot be relaxed. Merely because some other State Governments have given a relaxation probably due to the pandemic does not vest any right in the petitioner.

At this stage, it deserves to be noticed that the Supreme Court in Dr. Thingujam Achouba Singh and others Versus Dr. H. Nabachandra Singh and others 2020 (20) SCC 312 observed that:-

“14. So far as relaxation of upper age limit, as sought by the petitioners in one of the writ petitions is concerned, High Court has directed the competent authority and Executive Council of the Society to consider for providing such relaxation clause. We fail to understand as to how such direction can be given by the High Court for providing a relaxation which is not notified in the advertisement. While it is open for the employer to notify such criteria for relaxation when sufficient candidates are not available, at the same time

nobody can claim such relaxation as a matter of right. The eligibility criteria will be within the domain of the employer and no candidate can seek as a matter of right, to provide relaxation clause.”

The age of a prospective candidate as per the statutory rules has to be seen on the last date fixed for submission of application to the Commission or any other recruiting authority. Petitioner had crossed the upper age bar as laid down in the 2001 Rules on the last date for submission of application i.e., 28.03.2023 as per advertisement, Annexure P-1. Thus, no relief can be granted to him.

Consequently, there is no merit in the petition, which is hereby dismissed.

(SUVIR SEHGAL)
JUDGE

20.03.2023
kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No