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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-18249-2021 (O&M)
Date of Decision:28.11.2023

1)

RINKU

..... Petitioner

Versus

PUNJAB NATIONAL BANK AND OTHERS

..... Respondents

2)

CWP-16039-2021 (O&M)

SANJEEV KUMAR AND OTHERS

.....Petitioners

Versus

PUNJAB NATIONAL BANK AND OTHERS

....Respondents

3)

CWP-15481-2021 (O&M)

KARAMJEET KAUR

.....Petitioner

Versus

PUNJAB NATIONAL BANK AND ORS

.....Respondents

4)

CWP-26214-2021 (O&M)

SALINDER KUMAR

.....Petitioner

Versus

THE PUNJAB NATIONAL BANK AND OTHERS

...Respondents

5)

CWP-26373-2021(O&M)

SATVIR

.....Petitioner

Versus

THE PUNJAB NATIONAL BANK AND OTHERS

.....Respondents

6)

CWP-26403-2021

DHPINDER SINGH

.....Petitioner

Versus

PUNJAB NATIONAL BANK AND OTHERS

.....Respondents

7)

CWP-26237-2021

NIRBHAY SINGH

.....Petitioner

Versus

THE PUNJAB NATIONAL BANK AND ORS.

....Respondents

8)

CWP-26174-2021 (O&M)

KULWINDER SINGH

.....Petitioner

Versus

PUNJAB NATIONAL BANK AND OTHERS

....Respondents

9)

CWP-26122-2021 (O&M)

JUGRAJ SINGH

.....Petitioner

Versus

PUNJAB NATIONAL BANK AND OTHERSRespondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. J.S. Bedi, Advocate
for the petitioner (s) CWP-26122-2021, CWP-26174-2021,
CWP-26237-2021, CWP-26403-2021, CWP-15481-2021,
CWP-16039-2021 and CWP-18249-2021.

Mr. Mohit Jaggi, Advocate
for the petitioner (s) in CWP-26373-2021 &
CWP-26214-2021.

Mr. Saurav Verma, Advocate with
Mr. Akash Soni, Advocate and
Ms. Preeti Grover, Advocate
for the respondents.

JAGMOHAN BANSAL, J. (Oral)

1. By this common order CWP-26122-2021, CWP-26174-2021, CWP-26237-2021, CWP-26403-2021, CWP-26373-2021, CWP-26214-2021, CWP-15481-2021, CWP-16039-2021 and CWP-18249-2021 are disposed of since issue involved in all the petitions and prayer sought are common. With the consent of parties and for the sake of

brevity, facts are borrowed from CWP-18249-2021.

2. The petitioner through instant petition under Article 226 of the Constitution of India is seeking setting aside of advertisement dated 25.06.2021 (Annexure P-1) whereby respondent has invited applications for regular part time sweepers.

3. The petitioner claims that he joined Oriental Bank of Commerce (for short 'OBC') in April' 2014 as a part time sweeper. At that point of time, he was 22 years old. He belongs to Other Backward Class category. Oriental Bank of Commerce came to be merged with Punjab National Bank (for short 'PNB'). The merger came to be implemented w.e.f. 01.04.2020. PNB took over all assets and liabilities of OBC. All-India Punjab National Bank Employees Federation vide communication dated 02.05.2020 (Annexure P-4) invited data with respect to employees who were working with OBC on temporary basis.

4. The respondent vide advertisement dated 25.06.2021 invited applications for 30 regular part time sweepers. The last date to apply was 26.07.2021. The prescribed age for General category candidates was 18 to 24 years. Age relaxation of 3 years was granted to Other Backward Class category candidates and 5 years to SC/ST category candidates. The petitioner vide application dated 22.07.2021 applied for the post of sweeper. The petitioner came to know that being overage he would not be considered for the post, thus, he preferred writ petition before this Court.

5. This Court on 15.09.2021 issued notice of motion and passed the following order:

*“Notice of motion for **09/02/2022**.*

In the meantime, the respondent-Bank shall consider the petitioner as eligible for the

selection in question and consider his case accordingly, subject to the decision of the present writ petition.”

6. The petitioner during the pendency of present petition was not permitted to work. The interview was conducted on 25.08.2021, however, no candidate came to be appointed, thus, the selection process is still pending.

7. Learned counsel for the petitioner submits that petitioner was 22 years old when he started working with respondent- Bank. At the time of filing application, pursuant to advertisement dated 25.06.2021, the petitioner was little more than maximum prescribed age. The petitioner in terms of judgment of Supreme Court in '***Steel Authorities of India Ltd. and others Vs. National Union Waterfront Workers'*** (2001) 7 SCC 1 and ***State of H.P. v. Suresh Kumar Verma***, (1996) 7 SCC 562 deserves to be granted age relaxation.

8. Learned counsel for the respondent submits that there is no evidence that petitioner has ever worked with OBC or PNB. The petitioner has created documents to show that he has worked with erstwhile Bank i.e. OBC. The petitioner is not entitled to any age relaxation. The petitioner at present is not working with respondent-Bank. The petitioner has no vested right to claim age relaxation. This Court cannot ask respondents to grant age relaxation.

In support of his contention, learned counsel relied upon judgment of Hon'ble Supreme Court in '***Union of India and another Vs. Arulmozhi Iniarasu and others'*** 2011 (7) SCC 397.

9. I have heard the arguments of both sides and with the able assistance of learned counsel perused the record.

10. The Supreme Court in '*University of Delhi Vs. Delhi University Contract Employees Union and Others*' 2021 AIR (Supreme Court) 3305 has adverted with the question of age relaxation for contractual employees who were working with the University and became overage at the time of advertisement for regular post. The Court extended benefit of age relaxation. The relevant extracts of the judgment read as:

*"12. It is true that, as on the day when the judgment in Umadevi (2006) 4 SCC 1 was delivered by this Court, the contract employees had put in just about 3 to 4 years of service. But, as of now, most of them have completed more than 10 years of service on contract basis. **Though the benefit of regularization cannot be granted, a window of opportunity must be given to them to compete with the available talent through public advertisement.** A separate and exclusive test meant only for the contract employees will not be an answer as that would confine the zone of consideration to contract employees themselves. The modality suggested by the University, on the other hand, will give them adequate chance and benefit to appear in the ensuing selection.*

13. We, therefore, direct that all the concerned contract employees engaged by the University be afforded benefits as detailed in paragraphs 6 and 7 of the affidavit dated 09.03.2021 with following modifications:

(a) The benefit of age relaxation as contemplated in paragraph 6 of the affidavit without any qualification must be extended to all the contract employees.

(b) In modification of paragraph 7 of the affidavit, those employees who were engaged in

the year 2011 be given the benefit of 10 marks in the ensuing selection process while for every additional year that a contract employee had put in, benefit of one more mark subject to the ceiling of 8 additional marks be given. In other words, if a contract employee was engaged for the first time in the year 2010, he shall be entitled to the benefit of 11 marks, while one engaged since 2003 shall be given 18 marks, as against the appointee of 2011 who will have the advantage of only 10 marks. The contract appointees of 2012 and 2013 will have the advantage of 9 and 8 marks respectively.

(c) The Public Notice inviting applications from the candidates shall specifically state that the advantage in terms of the order passed by this Court would be conferred upon the contract employees so that other candidates are put to adequate notice.

(d) All the contract employees shall be entitled to offer their candidature for the ensuing selection in next four weeks and in order to give them sufficient time to prepare, the test shall be undertaken only after three months of the receipt of applications from the candidates.

14. xxxx xxxx xxxx

15. *In our view, paragraphs 6 & 7 of the affidavit with the modifications as directed hereinabove will subserve the purpose. Such directions will not only afford chance to the contract employees to participate in the selection process regardless of their age but will also entitle them to some advantage over the other participants. Similarly, those contract employees who have put in more number of years as against the other contract employees, will also have a comparative*

advantage.”

10.1 The Apex Court in ***Steel Authorities of India Ltd and others*** (supra) directed the respondents to grant relaxation of age and qualification. The relevant extracts of the judgment read as:

125. *The upshot of the above discussion is outlined thus:*

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“(6) If the contract is found to be genuine and prohibition notification under Section 10(1) of the CLRA Act in respect of the establishment concerned has been issued by the appropriate Government, prohibiting employment of contract labour in any process, operation or other work of any establishment and where in such process, operation or other work of the establishment the principal employer intends to employ regular workmen, he shall give preference to the erstwhile contract labour, if otherwise found suitable and, if necessary, by relaxing the condition as to maximum age appropriately, taking into consideration the age of the workers at the time of their initial employment by the contractor and also relaxing the condition as to academic qualifications other than technical qualifications.”

10.2 The Apex Court in ***Suresh Kumar Verma*** (supra) directed the State to grant relaxation of age. The relevant extracts of the judgment read as:

“5.Under these circumstances, the view of the High Court is not correct. It is accordingly set aside. It is mentioned that the respondents have become overaged by now. If they apply for any regular appointment by which time if they become barred by age, the State is

directed to consider necessary relaxation of their age to the extent of their period of service on daily wages and then to consider their cases according to rules, if they are otherwise eligible.”

11. In view of law laid down by Hon’ble Supreme Court in ***State of Karnataka Vs. UmaDevi and others (2006) 4 SCC 1***, this Court cannot ask State to absorb or regularize a temporary, adhoc or casual employee. The petitioner is neither claiming regularization nor absorption. The petitioner is claiming age relaxation on the ground that he has worked with respondent- Bank for a quite long time and at this age he would not be considered by any other Organization. To test him on the same standards as are fixed for the new applicants would deprive him of a fair and meaningful opportunity to participate in the selection process. The age relaxation, if extended to petitioner would not automatically make him eligible for appointment. The age relaxation would only make the petitioner eligible to participate in the selection process. It is apt to notice that as contended by the petitioners, the selection process has not completed, thus, no prejudice is going to cause to the respondents.

12. The respondent is disputing factum of past service. This Court cannot return findings with respect to fact whether or not petitioner had worked with OBC or PNB from 2014 onwards, however, in view of judgment of Supreme Court in ***University of Delhi*** (supra), ***Steel Authorities of India Ltd.*** (supra), ***Suresh Kumar Verma*** (supra), this Court finds it appropriate to direct the respondents to grant age relaxation equal to number of years, the petitioner has worked with erstwhile Bank. The petitioner shall produce documents in support of his contention which respondent shall consider with an independent mind. The

petitioner shall be entitled to age relaxation to the extent of number of years he proves that he has worked with respondent-Bank or erstwhile Bank i.e. OBC.

13. The petitions stand disposed of in the above terms. It is made clear that if the selection process has completed and candidates have been selected, the respondent would be at liberty to move an appropriate application.

14. Pending misc. application (s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

28.11.2023
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>