

2023:PHHC:074924
**121 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-15726-2018 (O&M)
Date of decision: 22.05.2023

Neeru

....Petitioner

Versus

State of Punjab and another

..Respondents

CORAM: HON'BLE MR JUSTICE ANIL KSHETARPAL

Present:- Mr. Ashok Goel, Advocate for the petitioner

Mr. R.S.Pandher, Sr.DAG, Punjab

ANIL KSHETARPAL, J (Oral)

1. The petitioner prays for issuance of a writ in the nature of Certiorari to quash clause 5(i) of the recruitment notice issued on 10.09.2017 which reads as under:-

“5. Age Limit:-

(i) The age should be between 18 to 37 years on 1.1.2017 (the candidates who have cleared the concerned subject written test as per the advertisement dated 20.11.2015 in connection with 6060 recruitment will be given relaxation in the age as mentioned above.)

2. The petitioner's candidature was rejected as she was found to be one day older than the maximum prescribed age of 37 years. As per the recruitment notice, the cut off date was 01.01.2017 whereas the petitioner was born on 31.12.1979. Hence, on 01.01.2017, she was 37 years and one day old.

3. Learned counsel representing the petitioner contends that clause 5(i) is discriminatory as the candidates, who have cleared the

concerned subject written test, as per the recruitment notice dated 20.11.2015, have been given relaxation in age, whereas the petitioner has been discriminated. He relies upon a Division Bench of the Madhya Pradesh High Court in **CWP-2377-2018** titled as '**Mukesh Kumar Umar and another vs. State of Madhya Pradesh and others**' decided on 07.03.2018.

4. This Court has considered the submissions while analyzing the arguments of the learned counsel representing the parties. Clause 5(i) of the recruitment notice provides for a provision for the grant of relaxation in age to the candidates who have cleared concerned subject written test pursuant to a previous recruitment notice. It is not in dispute that there is an enabling power in the service rules to grant relaxation in the age. The candidates who have cleared the concerned subject written test, held under the recruitment notice dated 20.11.2015, constituted a class in themselves. The petitioner does not claim that she cleared the said written test.

5. The judgment passed in **Mukesh Kumar Umar's case (supra)** is in the context of the recruitment notice wherein two different upper age limits were provided for the candidates who were domicile of Madhya Pradesh and outside. In fact, for domicile candidates of Madhya Pradesh, the upper age limit was 40 years, whereas for candidates from outside Madhya Pradesh, the upper age limit was 28 years. The same was held to be discriminatory as per Article 15 (1) of the Constitution of India, which prohibits discrimination on various grounds including the

place of birth. In this case, there is no discrimination on the basis of the place of birth. Hence, the aforesaid judgment does not help the petitioner.

6. In view of the existence of the enabling power to relax any provision in the rule, the decision of the Government, to grant relaxation to the candidates who had cleared the concerned subject written test, held pursuant to the previous recruitment notice, is neither arbitrary nor illegal.

7. In view of the aforesaid facts and discussion, no ground to issue the writ, as prayed for, is made out.

8. Hence, dismissed.

9. All the pending miscellaneous applications, if any, are also disposed of.

22.05.2023
rekha

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No