

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

219

CWP-25887-2015

Date of decision: 17.01.2023

BALJINDER SINGH

..Petitioner

Versus

STATE OF PUNJAB AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sukhdev Kamboj, Advocate
for Mr. Kapil Kakkar, Advocate
for the petitioner.

Mr. Maninder Singh, DAG, Punjab.

ANIL KSHETARPAL, J(Oral)

The petitioner prays for issuance of a writ in the nature of mandamus to direct the respondents to process his application for appointment to the post of Punjabi Master/English Master/Punjabi Lecturer under Clause 5(iii) of recruitment notice (Annexure P-10) which was issued on 20.11.2015. Clause 5(iii) provides that the employees of Punjab, other State and the Central Government shall have the upper age limit of 45 years. The petitioner was employed on a contractual basis in Rashtra Madhyamik Shiksha Abhiyan, which is run by a society registered under the Registration Act, 1908. By an interim order passed, the application of the petitioner was processed, however, as directed, the result was not declared.

The learned counsel representing the petitioner relies upon a judgment passed by the Division Bench of this Court in **CWP-12069-2015, titled as “Union Public Service Commission Vs. Sunita Sharma and others”, decided on 06.02.2015**. This judgment is not applicable to the present case as the contractual employees working under the Chandigarh

post advertised fell within the purview of Central Government. It has been brought to the notice of the Court that the petitioner is now 46 years of age and he has already been appointed as a Master in the Education Department.

This Court has carefully read the judgment in **Sunita Sharma's case (supra)**. The aforesaid judgment has not as the *ratio decidendi* laid down that all the contractual employees are entitled to the age relaxation irrespective of place, terms or nature of their employment. The Clause 5(iii) is applicable specifically to the employees of Punjab, other State and Central Government but it does not include the employees of Societies. In a similar case pertaining to age relaxation in the selection of candidates who are working in Municipal Corporation, Delhi, the Supreme Court in **Delhi Subordinate Services Selection Board and another Vs. Seema Kapoor Civil Appeal No.4461 of 2021, decided on 22.07.2022** held as under:-

“8. We have heard learned counsel for the parties and find that the order passed by the Central Administrative Tribunal and that of the High Court are not sustainable. Firstly, the High Court has quoted a wrong provision in the order passed relating to subsequent advertisement. Secondly, the benefit of age relaxation is permissible for government servants and departmental candidates. It is not even the stand of the respondent that she is a government servant and, rightly so, as she is employed in an autonomous body i.e. Municipal Corporation established under a specific statute. The expression ‘Departmental Candidates’ is in respect of the candidates who are working in the concerned Department i.e. Education. The Circular of the Government of India dated 27.3.2012 has made it explicitly clear that the benefit of age relaxation is only meant for civil employees of the Central Government and not to the employees of the autonomous bodies, public sector undertakings etc. Therefore, the respondent, as an employee of the autonomous body, i.e. the Corporation, is not entitled to age relaxation either as a departmental candidate or as a government servant.”

Hence, no ground to issue the writ as prayed for by the petitioner, is made out.

Dismissed.

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

January 17th, 2023

(ANIL KSHETARPAL)
JUDGE

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