

In the High Court of Punjab and Haryana, at Chandigarh**Civil Writ Petition No. 21620 of 2022****Date of Decision: 28.03.2023**

Achchhan Mian

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Sanjiv Gupta, Advocate
for the petitioner(s).

Mr. Navdeep Chhabra, Senior Deputy Advocate General,
Punjab, for the respondents.

Anil Kshetarpal, J.

1. The petitioner, while praying for the issuance of the writ in the nature of certiorari to quash the order dated 07.6.2022, prays for directions to the respondents to issue him the appointment letter for the post of the Unani Medical Officer.

2. In substance, the question that arises for consideration is “whether the petitioner, being a contractual employee of the Department of Ayush in the State of Uttar Pradesh, is entitled to age relaxation or not?”

3. As per the recruitment notice, ordinarily, the candidates applying for the post in question are required to be between 18 years and 37 years as on 01.01.2019. The petitioner was overage, however, he sought the age relaxation on the ground that he is presently serving as an Ayush/Unani Medical Officer under the Chief Medical Officer, Ghaziabad. The competent

authority has rejected the petitioner’s claim on the ground that the petitioner

was not a regular employee, hence, he is not entitled to the benefit of age relaxation.

4. Heard the learned counsel representing the parties at length and with their able assistance, perused the paper-book.

5. Clause (5.0) of the recruitment notice reads as under:-

“5.0 AGE

- (i) *Candidates should not be below 18 years and above 37 years of age as on 01-01-2019.*
- (ii) *Upper age limit may be relaxed up to 45 years for Punjab Govt, and its Board/Corporation/Commission and Authorities employees, all States/ Central Government employees.*
- (iii) *The Upper age limit is relaxed up to 42 years for Scheduled Castes and Backward Classes of Punjab.*
- (iv) *Ex-servicemen of Punjab Domicile shall be allowed to deduct the period of his service in the Armed Forces of Union from his actual age and if the resultant age does not exceed the maximum age limit prescribed for direct appointment to such a vacancy in the Service Rules concerned by more than three years, he shall be deemed to satisfy the condition regarding age limit.*
- (v) *Upper age limit is also relaxable up to 42 years for Widows, Divorcees and certain other Categories of Women.*
- (vi) *Upper age limit is also relaxed upto 47 years for*

Physically Handicapped of Punjab.”

6. The expression used in Clause (5)(ii) is to the effect that the upper age limit may be relaxed up to 45 years for the Punjab Government, its Board/Corporation/Commission and Authorities employees and all the States/Central Government employees. The concept of government employee is with reference to the protection granted under Article 311 of the Constitution of India which is applicable to the holders of the civil posts working either under the State or the Central Government. The contractual employee is no doubt an employee working for the State, however, he does not hold a civil post. It is the stand of the government that the benefit of age relaxation is available only to the regular employees of any government and not the contractual employees. The opinion formed by the State is plausible and substantial. The age relaxation is a concession granted by the government to the in-service employees. It is not the case of the petitioner that similar age relaxation has been extended to any other contractual employee.

7. Keeping in view the aforesaid facts and discussion, no ground is made out to issue the writ. Hence, the present writ petition is dismissed.

(Anil Kshetarpal)
Judge

March 28, 2023

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No