



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-10522-2024
Date of decision : 07.05.2024

Gurmeet Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ashish Grover, Advocate
for the petitioner.

Mr.T.P.S. Walia, AAG, Punjab.

Mr. Sarju Puri, Advocate
for respondents no.2 and 3.

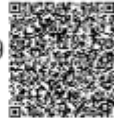
VIKAS BAHL, J.(ORAL)

1. This is a civil writ petition filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to grant relaxation in upper limit of age while filling posts of Clerk under General Category on adhoc basis as advertised vide public notice dated 05.04.2024 (Annexure P-8).

2. Brief facts of the present case are that the office of the District and Sessions Judge, Bathinda vide public notice dated 05.04.2024 had invited applications for filling up 16 vacant posts of Clerks on adhoc basis for a period of 6 months or till regular appointments were made by the

Hon'ble Punjab and Haryana High Court, Chandigarh, on consolidated

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monthly salary equal to minimum wages rates fixed by the Deputy Commissioner, Bathinda, subject to any further revision. The last date for filling of the said application form was 20.04.2024. A perusal of the public notice (Annexure P-8) (at page 27 of the paper book) would show that the candidate should have been between 18 to 37 years of age for general category as on 01.01.2024 and it was provided that relaxation of age will be given to the candidates of reserved categories as per rules / instructions of the Hon'ble High Court as well as Punjab Government. The relevant rules governing the appointment to the post of Clerk are Rule 6 and 7 of the Punjab Subordinate Courts Establishment Recruitment and General Conditions of Service Rules 1997. The said Rules have been highlighted by learned counsel for the petitioner and have been reproduced in paragraph 3 of the present writ petition. Rule 6, which is relevant for consideration, is reproduced hereinbelow:-

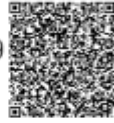
“Rule 6 reads as under:

(1) No person shall be recruited to the service by direct appointment if he is less than eighteen years or is more than thirty years of age in the case of non-technical posts and thirty-three years in the case of technical posts on the 1st day of January of the year immediately preceding the last date fixed for submission of applications by the appointing authority or unless he is within such range of minimum and maximum age limits as may be specifically fixed by the Government from time to time:

Provided that where different lower and upper age limits have been specifically prescribed for posts in the service, rules, these limits shall be made applicable for appointment to such posts:

Provided further that the upper age limit may be relaxed up to forty-five years in the case of persons already in the employment of the Punjab/Haryana Government, other state Government or the Government of India, High Court, other Subordinate Courts and Union

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Provided further that in the case of candidates belonging to Scheduled Caste and other Backward Classes, the upper age limit shall be such as may be fixed by the Government from time to time.

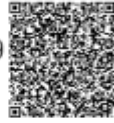
(2) In the case of ex-servicemen the upper age limit shall be such as has been prescribed by the Government from time to time.

(3) In the case of appointment on compassionate grounds on priority basis, the upper age limit shall be such as may be specifically fixed by the Government from time to time.”

Learned counsel for the petitioner has relied upon the said Rule to submit that the upper age limit of a candidate can be relaxed upto 45 years and has prayed that age relaxation be given to the petitioner on account of the fact that the petitioner had worked on adhoc basis in the office of respondent no.3 from 13.07.2015 to 25.05.2018 and thereafter from 02.08.2018 to 25.05.2023.

3. Learned counsel appearing for the State as well as for respondents no.2 and 3 have submitted that Rule 6 specifically provides that a person, more than 30 years of age in the case of non-technical posts and 33 years in the case of technical posts, is not to be appointed. It is submitted that the proviso to said Rule has been misconstrued by the petitioner inasmuch as the same only applies in a case where a person is already in the employment of the Punjab/Haryana Government, other State Government or the Government of India, High Court, other Subordinate Courts and Union Territory, Chandigarh and since the present petitioner, even as per his own case, was not in service on the date of publication of public notice dated 05.04.2024 nor is at present in service much less regular service, thus, the question of applying the proviso in favour of the petitioner does not arise. It

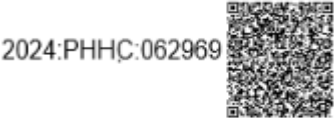
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is further submitted that the clause in the advertisement is in consonance with the said Rule and neither the said clause in the advertisement nor the Rule has been challenged by the petitioner and thus, the present petition is meritless and deserves to be dismissed.

4. This Court has heard the learned counsel for the parties and has perused the paper book.

5. A perusal of Rule 6, which has been relied upon by learned counsel for the petitioner and has been reproduced hereinabove, would show that it is specifically mentioned in sub rule (1) that no person shall be recruited to the service by direct appointment if he is less than 18 years or is more than 30 years of age in the case of non-technical posts and 33 years in the case of technical posts on the 1st day of January of the year immediately preceding the last date fixed for submission of applications. It is not in dispute that the petitioner has crossed the age of 33 years as it is the case of the petitioner that he was born on 04.07.1979. It is not the case of the petitioner that any different age has been prescribed for the post in question and sole reliance has been placed upon the proviso to Rule 6. The proviso to Rule 6 specifically provides that relaxation after 45 years of age may be given in the case of persons already in the employment of the Punjab/Haryana Government etc. In the present case it is not in dispute that the petitioner was not in the employment much less regular employment on the date of the issuance of public notice dated 05.04.2024 or on the last date of the submission of the application or even now and as per his own case, he had worked upto 25.05.2023. No challenge has been made to the said Rule



or even the clause in the advertisement / public notice dated 05.04.2024 (Annexure P-8) prescribing the age limit. No rule or regulation or law has been cited to show that the petitioner, who had worked on adhoc basis earlier and was not in service on the date of the advertisement / public notice or on the relevant date of consideration, is entitled to relaxation on account of his alleged earlier adhoc service.

6. Keeping in view the above said facts and circumstances, there is no merit in the writ petition and the present writ petition deserves to be dismissed and is accordingly dismissed.

(VIKAS BAHL)
JUDGE

May 07, 2024
Davinder Kumar

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