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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

119 CWP-19622 of 2024
Date of Decision:13.08.2024

Ajmer Singh
....Petitioner
Versus
State of Haryana and others
.....Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Sachin Gupta Ladwa, Advocate,
for the petitioner.
Mr. Harish Nain, AAG, Haryana

AMAN CHAUDHARY, J. (Oral)

1. The present petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari/ mandamus for quashing the order dated 25.07.2024, Annexure P-2.
2. Learned counsel submits that the petitioner was engaged as a labourer way back in the year 1990 in the Forest Department and his services have been dispensed with on attaining the age of 58 years vide order dated 25.07.2024, Annexure P-2, relying upon Rule 17-A of the Industrial Employment (Standing Order Punjab Rule, 1949 (29 March, 1949), whereas the employees who are working on Group-D posts are to be retired at the age

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of 60 years as per Haryana Civil Service (General) Rules, 2016. The said benefit not having been granted to the Group-D employees working in the same department as that of the petitioner approached this Court by filing a bunch of petitions which was decided by lead case bearing CWP No.2331 of 2023, titled **Rumali Devi and another versus State of Haryana and others**, vide judgment dated 24.01.2024, Annexure P-3, against which there is no LPA that has been filed, wherein the rules relied upon by the respondents were also dealt with and was allowed. Relevant paras thereof read thus:-

“15. In the present case, respondents have framed the 2016 Rules prescribing age of superannuation as 60 years qua regular Group-D employee who are covered by the definition of workman as envisaged under the Industrial Dispute Act, 1947. Once 2016 Rules have been framed subsequent to 2012 Rules for employees covered under the definition of workman, who are working on regular Group-D post as per which they are allowed to work till 60 years of age, there is no rationale to suggest why the same should not be made applicable to temporary employees/workmen, who are working on the same group-D post. Further, after prescription of a particular age under 2016 Rules, same will be applicable even under Section 17-A of the 2012 Rules. As per Rule 17-A of the 2012 Rules, which has been reproduced hereinbefore, age of retirement can be prescribed by consent or agreement. The said will also include where Government prescribes the age of retirement of workman which is being applied to the workmen, who are working with the Government of Haryana though on regular basis. Rule 17-A does not differentiate between a regular workman and temporary workman and once an age of 60 years has been prescribed for



regular workman in the 2016 rules, the same will ipso facto covers the rule 17-A of the 2012 Rules to govern the workman working with the State of Haryana. Therefore, keeping in view the promulgation of 2016 Rules, even under Rule 17-A of the 2012 Rules, the employee will retire at the age of 60 years as the same has already been prescribed by formulating the statutory rules qua workman.

16. At this stage, learned counsel for the respondent-State contends that the 2016 Rules are only applicable to regular employees and any benefit of the same cannot be given to the petitioners.

17. It may be noticed that despite there being no provision under the 2016 Rules governing the service to appoint temporary persons, still the appointments are being made by the Government on temporary basis and the work is being taken from temporary employees for years altogether at lower salary before regularization of their services under any regularization policy issued by the State. Once, the State has taken the liberty of appointing employees on temporary basis on a Group-D post which exist under the rules governing the service, for doing the same nature of work as is being taken from those regularly appointed, the respondent-State cannot be allowed to say that 2016 Rules will not be applicable qua the temporary group-D employees for the grant of continuity in service till the age of 60 years as allowed to the regular group-D employees working on the same post. Prescribing different standards of retirement age only on the basis of status of workman will be too harsh for a temporary employee/workman without there being any logical differentiation.

18. Further, being a welfare State, once a particular age of retirement has been prescribed under 2016 Rules for Group-D



employees and when it is a conceded position that the duties being discharged by the petitioners is within the parameters of those discharged by Group-D employees, there is no justification that the temporary Group-D employees be made to retire at the age of 58 years whereas, the employees discharging the same duties but working on regular basis be allowed to work till the age of 60 years. This differentiation/discrimination has not been justified on basis of any object, which may be sought to be achieved by doing so.

19. It may also be pointed out that the purpose which the said discrimination would serve has also not been pointed out by the respondent-State. The onus of proving that a discrimination has been made on basis of an intelligent rationale for achieving a particular purpose/object remains on the respondent-State, which the respondent-State has failed to discharge.

20. No other argument has been raised.

21. Therefore, in light of the above discussed position of law the impugned orders discharging the petitioners from their services at the age of 58 years are set aside and respondents are directed to allow the petitioners i.e. temporary Group-D employees to continue in service till the age of 60 years. It may be noticed that under the interim order of this Court, the petitioners are already discharging duties as temporary group-D employees beyond the age of 58 years and it is directed that the respondents shall not disturb their services so as to retire them before the age of 60 years.

22. Present petitions are allowed in above terms.

23. Civil Miscellaneous application pending, if any, is also disposed of .

24. Photocopy of this order be placed on the file of connected cases.”



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3. Learned State counsel despite his best efforts, has been unable to controvert the submissions made on behalf of the petitioner and draw out any distinctive aspects in the aforementioned judgment or cite any contrary law.

4. In wake of the above, the present petition is disposed of in terms of the judgment passed in **Rumali Devi and Others** (supra).

(AMAN CHAUDHARY)
JUDGE

August 13, 2024
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No