



CWP-25680-2023

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CWP-25680-2023

Date of Decision: 07.11.2024

Rajesh Kumar

...Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. Raman B. Garg, Advocate, and Mr. Mayank Garg, Advocate
for the petitioner

Mr. Parveen Mehta, DAG, Haryana

Mr. Kanwal Goyal, Advocate, and Ms. Sheena Dahiya, Advocate
for respondent no.3/HPSC

TRIBHUVAN DAHIYA, J. (Oral)

The petition has been filed, *inter alia*, seeking a writ of *certiorari* setting aside the letter dated 08.11.2023, Annexure P-8, whereby the petitioner's experience as Management Information System (MIS) Coordinator has not been considered valid for age relaxation for the post of Post Graduate Teacher (PGT) Fine Arts pursuant to advertisement 27/2023.

2. Briefly, as per facts apparent on record, the petitioner was working as MIS Coordinator on contract basis in the office of Block Elementary Education Officer-cum-Block Resources Coordinator under Haryana School Shiksha Pariyojna Parishad (for short 'the Parishad') with effect from 13.03.2014. The respondent Commission advertised posts of PGT Fine Arts

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vide the aforementioned advertisement; the maximum age for the candidates to apply for the post was forty-two years. However, the relaxation was provided in terms of clause 10 (ix) of the advertisement which stipulated, '*Relaxation in age Equal to the number of completed years only on equivalent post on adhoc/ contract/ work-charged/ daily wages basis excluding the period of break, if any, including any other age relaxation admissible, if any, subject to maximum age of 52 years*'. The petitioner being eligible applied for the same, and claimed age relaxation on the basis of his experience as MIS Coordinator in the Parishad as he was about forty-four years on the closing date to apply for the post, 18.07.2023. The age relaxation was, however, declined vide the impugned order because the post of MIS Coordinator was not considered equivalent to that of PGT Fine Arts.

3. Learned counsel for the petitioner has contended that the impugned order is not sustainable being contrary to directions issued by a Division Bench of this Court in judgment dated 31.05.2018 passed in CWP No.17206 of 2014 titled *Yogesh Tyagi and another v. State of Haryana and others*. He has relied upon para seventy-eight of the judgment which is to the effect that *adhoc/ contract/ work-charged/ daily wages* employees will be given relaxation in age to the extent of period they have worked continuously, in the next process of selection. He further contends that the impugned order is contrary to Government instructions dated 03.07.2019, Annexure P-2, whereby it has been decided to grant relaxation in maximum age to the persons who have already worked on contract basis in any Department/ Board/ Corporation of Haryana Government equal to the period one has worked in such capacity, for regular appointment on a post through the Commission. Since a right has been

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conferred on the petitioner in terms of these instructions, he is entitled to age relaxation for having working in the Parishad on contractual basis.

4. Learned counsel for the Commission, on the contrary, contends that the petitioner herein has been appointed contractual MIS Coordinator under the Haryana School Shiksha Pariyojna Parishad Employees Service Bye-Laws, 2013. The post cannot be considered equivalent to PGT Fine Arts. The qualifications required for the post of MIS Coordinator are Masters in Computer Application/M.Sc. Computer Science, whereas essential qualifications for the PGT Fine Arts are, (i) M.A. Fine Arts with atleast 50% marks and B.Ed. from recognized university; (ii) Matric with Hindi/Sanskrit or 10+2/B.A./M.A. with Hindi as one of the subject; (iii) certificate of having qualified Haryana Teacher Eligibility Test (HTET)/ School Teachers Eligibility Test (STET); (iv) consistent good academic record. As per job profile of MIS Coordinators, they work for collection and compilation of data for U-DISE (Unified District Information System for Education) as per the schedule given by the State HQ, compilation of data in Aadhar, online entries in All India School Education Survey, resolving all type software problems at block and cluster level, etc. These jobs have nothing to do with teaching Fine Arts. He further contends that the observations in *Yogesh Tyagi* case (*supra*) have no application to the facts of the instant case, since the issue before the Court was validity of impugned policies issued by the State Government regarding regularisation of services of *adhoc*/ contract/ work-charged/ daily wages employees, and all the policies were quashed having been framed in violation of law laid down by the Supreme Court.

5. Heard.



6. The petitioner has claimed relaxation in age on the basis of experience as MIS Coordinator on contract basis in the Parishad for over seven years. The relevant clause 10(ix) in the advertisement provides that relaxation in age is admissible to the candidates equal to the number of completed years only on equivalent post on *adhoc*/ contract/work-charged/ daily wages basis. This clause is not under challenge in the petition; therefore, it needs to be ascertained whether the petitioner has been working on an equivalent post to be entitled to age relaxation for the post in question/PGT Fine Arts, which is a teaching post. The post of MIS Coordinator is meant for collection and compilation of data and resolving software problems at block and cluster level in the Parishad. Besides, the requisite qualifications for these two posts are also not equivalent, as submitted by learned counsel for the respondents and the facts could not be disputed by learned counsel for the petitioner. Therefore, no exception can be taken to the impugned order in not considering the petitioner eligible for age relaxation on the basis of experience on the post of MIS Coordinator.

7. The directions relied upon by learned counsel for the petitioner in *Yogesh Tyagi* case (*supra*) to claim age relaxation are the following:

77. As there are thousands of employees who had been appointed on ad-hoc/contract/work-charged/daily wages, to take care of the work being carried out by them in different departments, we direct that they be allowed to continue for a period of six months, during which the State shall ensure that regular posts, wherever required, are advertised and the process of selection is completed. Under no circumstances, any



adhoc/contract/work-charged/daily wages employees shall be allowed to continue thereafter.

78. This Court cannot lose sight of the fact that even the employees to some extent may not be said to be at fault. They are swayed by the promises made to them or the assurances given, which may not be legally tenable. To take care of the fact that all such employees, who had been appointed on ad-hoc/contract/work-charged/daily wages may not suffer on account of they being over-age, it is directed that all such employees be given relaxation in age to the extent of the period they have worked continuously on ad-hoc/contract/work-charged/daily wages basis in the next process of selection, which is to be carried out in terms of the directions given by this Court. The aforesaid relaxation shall be one time measure and not in any subsequent selection.

7.1. In the aforementioned matter, this Court was deciding upon validity of regularisation policies issued by the Government whereunder thousands of *adhoc/ contract/ work-charged/ daily wages* employees were regularised. This policies were set aside being in violation of law; resultantly, all the employees regularised in terms thereof were rendered jobless. In these peculiar facts and circumstances, the directions were issued to allow such employees to continue in service for a period of six months, during which the regular posts were to be advertised. To ensure that the employees who had been working on *adhoc/ contract/ work-charged/ daily wages* and were regularised in terms of the policies, were not declared over-age, the aforesaid directions were issued for providing them age relaxation to the extent they had



issue arising in the instant case is entirely on different footings, and has no relation to the directions issued by the Court in *Yogesh Tyagi* case (*supra*). Here the petitioner has been appointed on contract basis in terms of the Parishad's Bye-laws in a regular scale of pay, and has been continuing in service in terms thereof. He has no concern with the regularisation policies, nor has he been removed due to setting aside of policies in *Yogesh Tyagi* case. Further, the petitioner is not entitled to claim any benefit in terms of government instructions dated 03.07.2019 also, since the same have also been issued in terms of directions issued in *Yogesh Tyagi* case to grant relaxation in age to persons who have worked continuously on *adhoc/ contract/ work-charged/* daily wages basis.

7. For the reasons aforementioned, there is no merit in the petition, and it stands dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

07.11.2024
Payal

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