

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

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CWP-25949-2023

Date of decision: 13.03.2024

JASBINDER SINGH

...PETITIONER

Vs.

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Navjot Singh, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of show cause notice dated 01.08.2023 (Annexure P-1) whereby respondent has called upon the petitioner to show cause as to why he should not be terminated.

2. The petitioner was appointed as constable on 29.08.2014. He was appointed on compassionate ground. As per instructions dated 21.11.2002 issued by State of Punjab, in case of compassionate appointment, age relaxation upto 5 years may be granted. The petitioner at the time of his appointment was 33 years old and he was granted age relaxation of more than 7 years. The relaxation was granted vide order dated 30.05.2014 (Annexure P-2) passed by Under Secretary, Department of Home Affairs and Justice. The petitioner continued to work from 2014 to 2023 and by impugned notice, he has been informed that department has decided to cancel age relaxation and terminate his service. The Department has

formed an opinion that age relaxation was granted beyond the maximum limit prescribed in the instructions and it has created bad precedent.

3. Mr. Navjot Singh, Advocate Submits that petitioner has been called upon to file reply and opportunity to file reply is merely eye wash because from the tone and tenor of the impugned notice, it is evident that respondent has already decided to cancel age relaxation granted to the petitioner and would terminate his service. The decision to grant age relaxation was a conscious decision made by State Government. The respondent, at this belated stage, has no authority to recall its earlier order.

4. Mr. Aman Dhir, DAG, Punjab submits that by impugned notice, petitioner has been called upon to put forth his stand. The petition is premature because respondent till date has not passed order terminating service of the petitioner.

5. I have heard the arguments of learned counsel for the parties and perused the record.

6. From the perusal of impugned notice, it comes out that respondent has granted an opportunity to petitioner to put forth his stand against the opinion formed by the respondent. The respondent has not passed any final order and petitioner has been granted opportunity to put forth his stand. The petitioner was granted age relaxation by a conscious decision of higher authorities. The authority which granted age relaxation has issued impugned notice.

7. The petition is hereby disposed of with liberty to petitioner to file his response to impugned notice and respondents are directed to adjudicate impugned notice considering the fact that age relaxation was granted by Government by way of a conscious decision and provision of maximum age relaxation is part of executive instructions. The policy of 2002 is not a part of

statutory provision or rules made thereunder. It is a policy i.e. executive instruction and decision to grant age relaxation was also an executive decision.

13.03.2024
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[JAGMOHAN BANSAL]
JUDGE

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