

CWP-1530-2021 (O&M)

2025:PHHC:033795-DB



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

**CWP-1530-2021 (O&M)
Date of Decision: March 06, 2025**

Jatinder Kapoor and others

.....Petitioners

Versus

State of Punjab and others

..... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE ALOK JAIN**

Present: Ms. Navreet Dhaliwal, Advocate for the petitioners.

Mr. Shekhar Verma, Addl. AG, Punjab.

LISA GILL, J.

1. This writ petition has been filed for setting aside/modifying Rule 7 of Punjab Police Service Rules, 1959 (Annexure P11), Rule 6 of Punjab Prison State Service (Class II) Rules, 1978 (Annexure P12) and Clause 4 in respect to age limit as stipulated in Advertisement No. 14 dated 11.12.2020 (Annexure P8) issued by Punjab Public Service Commission, seeking applications for appointment to various posts including that of post of Deputy Superintendent of Police/Deputy Superintendent of Jails (Grade-II)/District Probation Officer (Jails) through Punjab State Civil Services Combined Competitive Examination – 2020. It is further prayed that respondents No. 1 and 2 be directed to enhance maximum age limit from 28 years to 32 years for

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General category candidates for the posts as aforementioned and that petitioners may be permitted to appear provisionally in this examination.

2. Petitioners claim that they are fully eligible for the post in question except stipulation regarding maximum age qua General category candidates. Pursuant to issuance of advertisement dated 11.12.2020, they applied for appointment to the post of DSP/DSP (Jails)/DPO. Last date for filing online application form was 30.12.2020 and for depositing application fee by way of system generated fee online by 06.01.2021. Representations dated 11.06.2020 and 17.06.2020 were submitted, seeking enhancement of maximum age from 28 to 32 years. It is submitted that grievance of petitioners was overlooked. They also served legal notice dated 05.08.2020 in this respect. In reply thereto, information about action taken has been intimated on 09.09.2020 but no decision has been taken by competent authority. CWP-19216-2020 had earlier been filed by petitioners for increasing the age but this advertisement was withdrawn, therefore, writ petition was also withdrawn by petitioners on 18.12.2020. Advertisement was again issued on 11.12.2020 without any major change in necessary terms and eligibility conditions.

3. Learned counsel for petitioners vehemently argued that prescription of upper age limit of 28 for the post of DSP/DSP (Jails)/DPO is discriminatory inasmuch as upper age limit for Forest services in Uttar Pradesh Public Service Commission is 40 years and in case of Himachal Pradesh, age limit for appointment in Police services is 35 years. Learned counsel for petitioners further submits that six attempts are provided to the candidates for selection to the post in question. Age limit is from 21 to 28 years for candidates of General category. Examinations are not held every year by the respondent. By way of example it is stated that examinations were

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held in the years 2013, 2015, 2018, 2020 and after 2020 examinations are to be held now in 2025. Number of attempts so provided become illusory when read with upper age as provided under Rule 7 of Punjab Police Service Rules, 1959. It is, thus, prayed that this writ petition be allowed.

4. Learned counsel for State while referring to affidavit dated 29.10.2024 submits that employer is the best judge to lay down conditions for appointment to various posts in hierarchy. Merely because certain conditions, qualifications or eligibility conditions are not conducive to a particular section of candidates, would not invite indulgence of this Court. It is further submitted that recruitment process in question, to the post of DSP/DSP (Jails)/DPO, has been completed as per the Rules promulgated by competent authority. Selected candidates are not a party to this writ petition, therefore, no order to their detriment in any case should be passed. Reference is made to Article 309 of Constitution of India which provides for recruitment and conditions of service of persons serving the Union or the State. It is provided therein that appropriate legislature may regulate recruitment and conditions of service of persons appointed to public services and posts in connection with affairs of Union or any State. Dismissal of writ petition is sought.

5. Heard learned counsel for parties and have perused the file with their able assistance, however, we do not find any ground whatsoever to cause interference in this writ petition.

6. At the outset, it is relevant to refer to Rule 6 of Punjab Prison State Service (Class II), 1978 which provides for criteria of age for recruitment to the post of DSP(Jails)/District Probation Officer as under:-

“Rule 6: No person shall be recruited by direct appointment to any post in the Service if he is less than 21 years or is more than 27 years of age on the date of 1st January, next succeeding the last

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date appointed by the Commission for the submission of applications or unless he is within such range as may be specifically fixed by Government from time to time.

Provided that the conditions of upper age limit may be relaxed upto 45 years in the case of a person already in employment of the Punjab Government, other State Government, or the Government of India:

Provided further that the appointing authority may for reasons to be recorded in writing, relax the upper age limit for a category or class of persons:

Provided further that in the case of a candidate belonging to Scheduled Castes or other Backward Classes, the upper age shall be such as may be fixed by the Government from time to time:

Provided further that in the case of candidate who has not less than five years service under the Government, the upper age limit shall be 35 years.

2. In the case of demobilized Armed Forces person his age at the time of joining Military Service or training prior to the Commission, as the case may be, should not exceed the upper age limit prescribed for direct appointment to such posts."

7. As per amendment carried out in the year 2014, maximum age for recruitment to service through direct recruitment was increased from 27 to 28 years. Rule 7 of Punjab Police Service Rules, 1959 reads as under:-

"7. Qualifications.- (1) No person shall be appointed to the Service by direct appointment unless -

- (i) he is not less than twenty one years and not more than twenty seven years of age on the first of February of the year in which appointment is to be made;
- (ii) he produces a certificate of physical fitness as prescribed by rule 3.1 of the Punjab Civil Services Rules, Volume I, Part I.
- (iii) he has a minimum height of 5' - 7" and normal chest measurement of 33" with expansion of 1-1/2.
- (iv) he is a graduate of a recognized University and can speak and read Hindu, Punjabi and Urdu and writ in the Devnagri, Gurmukhi and Urdu scripts with facility:

Provided that the upper age limit prescribed in sub-clause (i) shall be –

- (a) thirty-two years in the case of Scheduled Castes, Scheduled Tribes and Backward Classes.

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(b) such as may be prescribed by the State Government in accordance with the instructions issued by it in this behalf from time to time in the case of ex-serviceman.

Provided further that the physical standard prescribed in sub-clause (iii) shall not be relaxed without special sanction of the Government.

(2) No male candidate who has more than one wife living and no female candidate who has married a person having already a wife living shall be eligible for appointment to the service:

Provided that this disqualification shall not be applicable in cases where it was incurred before the 8th September, 1954, and the recruitment is to be made by promotion.

(3) (i) The Government shall notify to the Commission the number of vacancies to be filled by direct appointment during the year, and the commission will proceed to give publicity to the proposed appointments and invite applications. If applications are invited before the results of the University Examinations have been notified; candidates appearing, or who have appeared in the Bachelor of Arts or equivalent examination, will be allowed to submit provision applications.

(ii) The applications received will be referred for scrutiny to the Inspector General of Police, Punjab, who may make such enquiries as he may think fit and shall thereafter return all the application with his remarks, if any, to the Commission.

(iii) The Commission will scrutinize all applications received and admit to the examination mentioned in sub-rule (3) of rule 6 all those candidates who are found to be eligible in accordance, with those rules.

(iv) Success in the examination will confer no right on any candidate to appointment, unless Government is satisfied after such enquiry as may be considered necessary, that the candidate is suitable in all respects for appointment to the Service.”

8. Clause 4 of advertisement dated 11.12.2020 reads as under:-

4. Age Limit

4.1 As mandated by Punjab State Civil Services (Appointment by Combined Competitive Examination) Rules, 2009 read with Punjab Civil Services (Executive Branch) Rules 1976, and Govt instructions issued from time to time, the candidate should have attained the minimum age of 21 years and should not have attained the age of 32 years on the first day of January of the year in which the last day falls for submission of application to the Commission. In other words, the candidate should have attained the age of 21 years but should not be older than 37 years on 1st January 2020.

Provided that in the case of the post of Deputy Superintendent Police and Deputy Superintendent Jail District Probation Officer (Grade-11) in Punjab Prisons State Service, a

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candidate should have attained the minimum age of 21 years and should not have attained the age of 28 years on the first day of the year, as referred to above.

4.2 The upper age limit for a Punjab Government, Other State Government or the Government of India, including Board/Corporations/Public Sector Undertaking employees may be relaxed up to 45 years. However no age relaxation is permissible for Punjab Police Service.

4.3 The Upper age limit may be relaxed up to 33 years for Scheduled Castes and Backward Classes of Punjab only in case of Punjab Police Service and Punjab Prisons Service

4.4 The Upper age limit may be relaxed up to 42 years for Scheduled Castes and Backward Classes of Punjab only in case of other services except Punjab Police Service and Punjab Prisons Service

4.5 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.

4.6 Upper age limit may be relaxed up to 42 years for Widows, Divorced women and certain other Categories of women. However no age relaxation is permissible for women in case of Punjab Police Services and Punjab Prisons Service.

4.7 Upper age limit may be relaxed up to 47 years for Physically Handicapped of Punjab only. However no age relaxation is permissible in case of Punjab Police Service and Punjab Prisons Service.

Note: Regarding drawing the pay of the appointed candidate, as per Notification No. 7/204/2012-4FP1/66, Dated 15/01/2015 Govt. of Punjab, Department of Finance (Finance Personnel-1 Branch) Chandigarh, and Notification No. 1/62016-4P.P.1/834680/1 dated 07/09/2016 Govt. of Punjab, Department of Personnel PP-1 Branch Chandigarh, fixed emolument equal to Minimum of the Pav Band without any Grade Pav or any allowance will be paid during the probation period of 3 years. It is also clear that Annual increment or any other allowance except travelling allowance will not be paid during the probation period of 3 years. However, this issue is under litigation. So, there may be some change in rules in due course, but so far the Rules stands.

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9. It is a settled position that it is the prerogative of Appointing authority to provide conditions for appointment to various posts. It is not for a candidate to dictate terms in this respect. In the given factual matrix, merely because Recruitment Rules in another State or for other categories of persons provide for a different upper age limit cannot be a ground for interference. Similar challenge raised in CWP-41-2014 was negated with dismissal of said writ petition on 09.01.2024. This decision it is informed has attained finality.

10. Another factor to be taken note of, at this stage, is that selection in the instant matter is now complete with six persons being appointed to posts in question. No interim relief was granted to petitioners. Keeping in view the facts and circumstances as above, no ground for interference is called for.

11. No other argument has been addressed.

12. Writ petition is, accordingly, dismissed. Needless to say, it is always open to authorities to look into the matter and take a holistic view while taking in account averments on the part of petitioners that examination in question is not held every year.

13. Pending application(s), if any, stand(s) disposed of.

(LISA GILL)
JUDGE

(ALOK JAIN)
JUDGE

March 06, 2025

Rts

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No