

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-745-2021

Date of Decision:-31.8.2021

Samandeep Singh and others

... Appellants

Versus

State of Punjab and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present:- Mr. Preetwinder Singh Dhaliwal, Advocate
for the appellants.

Ms. Monica Chhibbar Sharma, Sr. DAG, Punjab.

KARAMJIT SINGH, J.

Case has been heard through video conferencing on account of
COVID-19 Pandemic.

The challenge in the present appeal is to the judgment dated
11.8.2021 passed by the learned Single Judge whereby the writ petitions
filed by the appellants were dismissed.

The appellants and other persons filed 7 different writ petitions
seeking the following reliefs:-

- i. To direct the respondents to give age relaxation to them for applying against the posts of Police Sub-Inspectors advertised on 6.7.2021.
- ii. To count their age as on 1.1.2021 as per the judgment of Hon'ble Supreme Court in "**Re: Cognizance for Extension of Limitation**" whereby the period starting from 15.3.2020 till further orders was directed to be considered as "Zero Period" in view of COVID-19 pandemic.
- iii. To allow the petitioners (appellants herein) to provisionally appear in the examination scheduled for the aforesaid posts.

The writ petitions were contested by the respondents.

Reply by way of affidavit of Mr. Patil Ketan Baliram, IPS, Assistant Inspector General of Police Personnel-2, Punjab, Chandigarh was filed on behalf of respondents No.1 and 2.

After hearing counsel for the parties, the learned Single Judge dismissed all the writ petitions vide impugned order dated 11.8.2021.

The appellants being not satisfied have filed the present appeal.

We have heard the counsel for the appellants and the State counsel who was having advance copy of the appeal.

The counsel for the appellants submitted that 560 posts of Sub-Inspectors in the Punjab Police Department were advertised on 6.7.2021 and

the last date for submission of on-line application forms was 27.7.2021. As per the said advertisement minimum prescribed age as on 1.1.2021 was 18 years and maximum prescribed age as on 1.1.2021 was 28 years, subject to certain relaxations which reads as follows:-

- i. Relaxation upto five (5) years in the prescribed upper age limit has been granted to the candidates belonging to the Scheduled Castes and Backward Classes, who are residents of Punjab. As such, maximum age for such candidates shall be 33 years as on 1 January, 2021.
- ii. Ex-servicemen, who are residents of Punjab, shall be allowed to deduct the period of his/her service in the Armed Forces of the 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 (3) years, she/he shall be deemed to satisfy the conditions regarding age limit. सत्यमेव जयते
- iii. Relaxation upto five (5) years in the prescribed upper age limit has been granted to candidates, who are serving regular employees of Punjab Government or of other State or Central Government. As such, maximum age for such candidates shall be 33 years as on 1 January, 2021.”

The counsel for the appellants further submitted that no appointments to the posts of Sub-Inspectors were made in the Police Department since 2016. The appellants who intended to compete for the said posts, have lost the chance for applying / participating in the selection

process, as they were more than 28 years of age as on 1.1.2021. The counsel for the appellants further submitted that in these circumstances the respondents be asked to consider the prayer of the appellants sympathetically as was held by this Court in **CWP-25534-2016, Mangat Singh and others vs. State of Punjab and others** decided on **3.2.2020**.

The counsel for the appellants next contended that on 12.7.2020, the Chief Minister of Punjab tweeted that the official announcement of the increase in recruitment age from 28 to 32 years for Sub-Inspectors in the Police Department would be made in the coming days as is evident from Annexure P-4. The counsel for the appellants while referring to the judgment of Delhi High Court in **WP(C) No.8956 of 2020, Najma vs. Government of NCT of Delhi** decided on **22.7.2021** contended that such assurance given by the Chief Minister of the State is enforceable. The Court should issue Mandamus even on the basis of the aforesaid tweet made by the Chief Minister.

The counsel for the appellants next contended that as per proviso to Rule 12.6(c) of the Punjab Police Rules 1934 (in short 'the Rules'), the Director General of Police, Punjab has the power to relax the upper age limit under special circumstances. The counsel for the appellants further argued that in the year 2020, no posts were advertised due to lock down on account of spread of COVID-19 infection. The entire system came to halt. Due to abnormal circumstances, the Hon'ble Supreme Court in **suo moto Writ Petition (Civil) No.3/2020 Re: Cognizance for Extension of Limitation** passed order dated 23.3.2020 whereby the period starting from

15.3.2020 till further orders was directed to be considered as 'Zero Period' in view of COVID-19 pandemic. The counsel for the appellants submitted that in the same terms, the appellants be also given benefit and they be permitted to apply for the posts of Sub-Inspectors by relaxing upper age limit, taking into consideration the fact that they would have been eligible if the said posts were advertised in the year 2020. The counsel for the appellants while referring to order dated 25.5.2021 passed in **Writ-A No.4924 of 2021, Sushil Kumar Singh and others vs. State of UP and others**, submitted that under the similar circumstances, the Allahabad High Court gave permission to the candidates to apply for the posts of Sub-Inspectors in U.P. Police, on a provisional basis and further directed the petitioners therein may be included in the recruitment process.

On the other hand, the learned State counsel supported the impugned order passed by the learned Single Judge. The State counsel contended that Rule 12.6 of the Rules prescribes minimum and maximum age limit for the post of Sub-Inspector. As per the Rules, the maximum age limit for the said post is 28 years subject to certain relaxations. It is further contended that the advertisement dated 6.7.2021 was issued by the Police Department on the basis of the aforesaid Rules. However, the appellants have not challenged the said Rules. The learned State counsel further argued that the Court could not issue any direction regarding relaxation of upper age limit on the basis of tweet made by the Chief Minister. Age limit can be relaxed only by amending the aforesaid Rules. It is further contended that the appellants failed to bring to the notice of the Court any special circumstances under which the Rules could be relaxed. The State counsel

while summing up her arguments contended that the learned Single Judge dealt with the entire matter in right perspective and that the present appeal deserves to be dismissed.

We have considered the submissions made by the counsel for the appellants and the State counsel.

We do not find any illegality or perversity in the impugned judgment for the reasons given below.

As per written reply filed by the respondents, the age limit prescribed in advertisement for the posts of Sub-Inspectors, dated 6.7.2021, was based on Rule 12.6 of the Rules, which prescribes upper age limit as 28 years. Admittedly, the petitioners (appellants herein) have not invoked the writ jurisdiction to challenge the said Rules. Along with their written reply, the respondents also produced letter dated 25.5.2016 (Annexure R-2 in the Writ Petition), as per which the upper age limit for the post of Sub-Inspector (Intelligence) was increased from 25 years to 28 years, in view of the approval granted by the Council of Ministers on 30.4.2016. This being the position the appellants cannot seek relaxation in upper age limit as a matter of right just on the ground that Chief Minister, Punjab had tweeted on 12.7.2020 that in the coming days maximum age for recruitment to the posts of Sub-Inspectors would be increased from 28 years to 32 years. The maximum age limit could be increased above 28 years only by amending the Rules as per the procedure prescribed under Law. The ratio of **Najma's** case (supra) is not of any assistance to the appellants as has been rightly observed by the learned Single Judge. The reasons being the facts and

circumstances of the aforesaid case were totally different and distinguishable from the facts of the instant case. In the aforesaid case, the concerned Chief Minister made certain promises in press conference that if any tenant is unable to pay rent due to poverty, Government would pay the same on his behalf. In this background, Delhi High Court observed that the promise made by the Chief Minister clearly amounts to an enforceable promise, the implementation of which ought to be considered by the Government. However, in the present case, relaxation sought for could not be given without amending the Rules. Such amendment could be made collectively by the Council of Ministers and not solely by the Chief Minister. Thus the Court cannot issue any direction or Mandamus just on the basis of aforesaid Tweet made by the Chief Minister of Punjab.

Upper age relaxation could not be given to the appellants, just because no such recruitment has been done since 2016 and as such they have lost chance to be selected as Sub-Inspectors. In **Mangat Singh's** case (supra), learned Single Judge of this Court while taking sympathetic view asked the Government to consider the prayer of the petitioners therein for relaxation in the upper age limit. In the present case, the learned State counsel brought to the notice of the learned Single Judge that in pursuance of the aforesaid directions the request of the petitioners therein was considered and ultimately rejected by the Government vide speaking order dated 14.7.2020 (Annexure R-1 in the Writ Petition). Thus, we are of the view that the decision in **Mangat Singh's** case (supra) is not of any help to the appellants in any manner.

There is no doubt that taking into consideration the peculiar situation on account of COVID-19 virus and the resultant difficulties being faced by the litigants across the country in filing their cases, the Hon'ble Supreme Court extended the prescribed period of limitation in all such proceedings, till further orders. The said order is dated 23.3.2020 (Annexure R-3 in the Writ Petition). We are unable to understand as to how the aforesaid order dated 23.3.2020 passed by the Hon'ble Supreme Court could be applied to relax upper age limit for the posts of Sub-Inspectors, in the instant case. The aforesaid order of the Hon'ble Supreme Court was applicable only to the judicial proceedings including filing of the fresh cases.

The facts and circumstances of Sushil Kumar Singh's case (supra) are not brought to the notice of this Court. We are not aware of the facts of the said case in which interim order dated 25.5.2021 was passed by Allahabad High Court. In these circumstances, we are not giving much weightage to the aforesaid interim order.

As per written reply submitted by the respondents, the proposal to increase upper age limit for the posts of Sub-Inspectors from 28 years to 32 years was examined by the office of Director General of Police, Punjab. Various Field Officers were consulted but most of them were not in favour of such increase in the upper age limit due to questionable physical fitness at the age of 32 years, particularly physical part of basic training. Also this will further increase the upper age limit of reserved categories. Further, the State in its reply, pleaded that there might be thousands of candidates who have not applied for the posts in question being overage and if at this stage

the relaxation of upper age limit is given to the petitioners, it would amount to discriminate the other similarly situated candidates who had not applied.

Further it is not within the domain of the Courts to legislate as has been recently held by the Hon'ble Supreme Court in **Writ Petition (Civil) No.1410-2020 Rachna and others vs. Union of India and another** decided on **24.2.2021**. Rajasthan High Court in **DB Civil Special Appeal (W) No.1151 of 2013, Rajasthan Public Service Commission vs. Mahendra Kumar and others** decided on **25.3.2014** observed that it is a settled principle of law that the High Court while exercising powers under Article 226 of the Constitution, cannot function as a rule making authority.

While reverting to the facts of the present case, admittedly proviso to Rule 12.6(c) provides that the Director General of Police may for the reasons to be recorded in writing, relax the upper age limit under special circumstances. However, we are not inclined to issue any such direction to the concerned authority to exercise its discretion to relax the upper age limit for the posts of Sub-Inspectors, the reasons being this Court cannot act as a rule making authority or legislate to increase the upper age prescribed under the rules.

In wake of the above, the present appeal is hereby dismissed being devoid of merits.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

31.8.2021
Gaurav Sorot

Whether reasoned / speaking?
Whether reportable?

Yes / No
Yes / No