

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

O.A. No.60/24/2017

Date of decision: 31.07.2018

...

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).
HON'BLE MRS. P. GOPINATH, MEMBER (A).**

...

Prateek Kumar aged 26 years, S/o Sh. Mahavir Parsad, R/o H. No.148/14,
Gali No.4, Jhakholi Adda, Shora, Kaithal Jind Road, Kaithal, Haryana
(Group 'C').

... APPLICANT

VERSUS

1. Chandigarh Administration, Department of Medical Education & Research, Mini Secretariat, Sector-9, Chandigarh through its Secretary.
2. Government Medical College & Hospital, Sector-32, Chandigarh through its Director-Principal.
3. Director-General, Government Medical College & Hospital, Sector-32, Chandigarh.
4. Divya D/o Sh. Pramod Kumar.
5. Seema D/o Sh. Rakesh.
6. Silki D/o Sh. Balram.

Respondents No.4 to 6 be served through respondent no.2.

... RESPONDENTS

PRESENT: Sh. Padamkant Diwedi vice Sh. Sourabh Goel, counsel for the applicant.
Sh. Arvind Moudgil, counsel for respondents No.1-3.
Respondents No.4 to 6 proceeded ex-party vide order dated 23.01.2017.

ORDER (Oral)

SANJEEV KAUSHIK, MEMBER (J):-

1. By means of present O.A., the applicant assails final result dated 06.01.2017 (Annexure A-6) qua the post of Junior Technician (Anaesthesia).
2. Facts are largely not in dispute.
3. The applicant initially joined respondent department, on contract basis, as Operation Theatre Assistant on 1.7.2014. While he was continuing in service on contract basis, respondents issued advertisement dated 11.08.2016 inviting application for Group 'B' and Group 'C' posts of Para-Medical. The applicant being eligible applied for the post after taking permission from employer. He was allowed to participate in selection but while declaring final result, he was declared ineligible on account of being over-age. Against that, the applicant is before this Court.
4. The applicant has framed four questions of law, which read as under:-

"A). whether the impugned decision 6.1.2017, Annexure A-6, vide which declaring the applicant ineligible for the post of Junior Technician Anesthesiology is arbitrary, illegal and unconstitutional?

B). whether the applicant who is working as Operation Theatre Assistant with the respondent No.2 on contract basis since July 2014 is entitled to age relaxation for appointment to the post of Junior Technician Anesthesiology on regular basis?

C). whether the applicant having requisite qualification and experience is fully eligible for the post of Junior Technician Anesthesiology?

D). whether the decision of respondents in not giving benefit of age relaxation to the applicant who is working as Operation Theatre Assistant with the respondent No.2 on contract basis since July 2014 is entitled to age relaxation for appointment to the post of Junior Technician Anesthesiology on regular basis?"

5. Learned counsel for the applicant vehemently argued that impugned decision declaring him ineligible on account of over-age, without giving him relaxation in age for the period, he was working with respondent department, is in violation of order dated 24.02.2011 of this Court in the case of **Sneh Lala vs. UOI & Ors.** as upheld by the Hon'ble High Court.
6. Respondents while filing written statement did not dispute about factual accuracy of the matter. However, it was submitted that since applicant was over-age on the cut-off date, so his candidature was wrongly cancelled.
7. We have heard learned counsel for the parties and have given our thoughtful consideration to the entire matter.
8. Issue with regard to grant of age-relaxation to an employee who is working with the department, on contract basis, has been engaging the attention of this Court in a number of cases, wherein it was held that if a person is working on contract basis then he should be given age relaxation for the period he has worked with the department. In the case of **UPSC vs. Sunita Sharma & Ors.** CWP No.12069 of 2015 (O&M) decided on 06.02.2017, Hon'ble jurisdictional High court while considering similar plea, has upheld order of this Court directing the respondents to grant to the petitioners therein age relaxation, for the period when they have worked with Chandigarh

Administration. Subsequent to that also, in the case of **Chandigarh Administration vs. Central Administrative Tribunal Chandigarh** 2011 (4) SLR 754, jurisdictional High Court reiterated the above view.

9. Admittedly, the applicant was working with the respondent department since 2014 on contract basis, therefore, the respondents ought to have considered his case on these grounds and granted him benefit of judicial pronouncement wherein it has been held that an employee, working on contract basis, be given age relaxation for number of years he/she has worked on contract basis.
10. Accordingly, the impugned order is hereby quashed and set aside. The respondents are directed to reconsider the case of the applicant by giving him relaxation in age for the period when he has worked with the respondent department, on contract basis. The above exercise be concluded by the respondents expeditiously, but in any case not later than two months, from the date of receipt of copy of this order. No costs.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Date: 31.07.2018.
Place: Chandigarh.

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