2017 P L C (C.S.) 1325

[Lahore]

Before Muhammad Qasim Khan, J

SHAUKAT ALI HAYAT

Versus

GOVERNMENT OF PUNJAB through Secretary Education and 3 others

W.P. No.3637 of 2015, decided on 10th April, 2015.

Civil service---

----Recruitment--- Equality of citizens--- Safeguard against discrimination in services---Representation of women in services---Age relaxation for women candidates---Constitutionality---Petitioner challenged constitutionality of advertisement for posts of educators which provided five years age relaxation for all candidates and three years further for female candidates---Petitioner contended that the additional age relaxation given to women was violative of fundamental rights guaranteed by Arts. 25 & 27 of the Constitution under which no citizen otherwise qualified for appointment in service should be discriminated and all citizens were equal and there should be no discrimination on basis of sex---Article 25(3) of the Constitution provided that the State was competent to make any special provisions for protection of women and children, but the authorities under garb of such protection were giving preference to female candidates over male---Held that condition imposed in advertisement was not meant to infringe any of the Constitutional guarantees to men, rather the same was a step towards protection and encouragement of deprived limb/women of society---Constitutional petition was dismissed in circumstances.

Nazar Elahi v. Government of Punjab and others 2013 CLC 1457 rel.

Ch. Zulfiqar Ali for Petitioner.

Imtiaz Ahmad Kaifi, Additional Advocate General with Rana Muhammad Yousaf Senior Law Officer and Fayaz Mehmood A.D. (Litigation), Okara.

ORDER

MUHAMMAD QASIM KHAN, J.---Briefly the facts are that through an advertisement applications were invited for various posts of Educators in different categories in District Okara and according to one of the clause of said advertisement five years age relaxation was given to all the candidates, whereas, three years further relaxation of age has been given to the female candidates, as such, the age limit for male candidates was set as 20 to 35 years, whereas, for female candidates age limit was prescribed as 20 to 38 years. This condition is under challenge through the instant writ petition.

2. The contention of learned counsel for the petitioner is that although under Article 25 of the Constitution of Islamic Republic of Pakistan, 1973 all citizens are equal and there shall be no discrimination on the basis of sex and under Article 25(3) the State is competent for making any special provisions for the protection of women and children but under the garb of protection in the case in-hand, the respondents are giving preference to the female candidates over male members of the society, which is against Article 27 of the Constitution which provides that no citizen otherwise qualified for appointment in service shall be discriminated and only exception is that certain number of posts could be fixed for any gender or locality in order to uplift them. The learned counsel concluded that said condition imposed in the advertisement is violative of fundamental rights guaranteed by the Constitution, therefore, the same be struck down.

3. The learned Law Officer on the other hand has opposed this petition by contending that government is fully empowered to lay a policy and by doing so, no fundamental right of the petitioner or other alike candidates has been infringed.

4. Heard.

5. This question earlier came under consideration before this Court in the case "Nazar Elahi v. Government of Punjab and others" (2013 CLC 1457) and after detailed study of different Articles of the Constitution of Islamic Republic of Pakistan, 1973, this Court observed that:--

> " .age relaxation for female candidates meets the standard of a permissible affirmative action, hence is protected under Article 25(3) of the Constitution. I am also of the opinion that the age relaxation offered to female candidates does not violate Article 27(1) of the Constitution. In fact it promotes the full participation of women in national life as contemplated under Article 34 of the Constitution, which provides that steps shall be taken to ensure full participation of women in all part of National Life."

6. In addition to the above, it may be observed here that we are living in a male dominated society full with considerable disparity, and in some cases incompleteness, of institutional provision (even at primary level) relates directly to difficulties of physical access which adversely affect girls more than boys; there is an overall and profound urban/rural dichotomy which favours towns and cities, especially in respect of secondary school provision for girls; patterns of transportation and migration affect educational provision. The widespread operation of patriarchal systems of social organization; of customary early marriage; of heavier domestic and subsistence duties of females (especially in rural areas); a generally lower regard for the value of female life, all combine though differentially in each case, to adversely affect the participation of girls and women in formal education. To this list may be added problems of seclusion and security in some areas. The influence of above factors can only be overcome by more sophisticated and multivariate spatial analysis of educational needs and the planning and implementation of integrated steps to encourage such women, who face all such practical issues and come out to compete with men on merit. Thus, the condition imposed in the advertisement is not meant to infringe any of the constitutional guarantees to men, rather this is a step towards protection and

encouragement of deprived limb of our society. I, therefore, see no merit in this petition and the same is accordingly dismissed.

SL/S-54/L Petition dismissed.

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