
(2012) 01 P&H CK 0280
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 1415 of 2012

Baljinder Singh Sra

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision : 24-01-2012

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 226, 227, 233
Haryana Superior Judicial Service Rules, 2007 — Rule 11, 6(1)

Citation : (2012) 166 PLR 31

Hon'ble Judges : Tej Pratap Singh Mann, J; Satish Kumar Mittal, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Satish Kumar Mittal, J.—In the present writ petition filed under Articles 226/227 of the Constitution of India, the petitioner is challenging the vires of Rule 11(c) of the Haryana Superior Judicial Service Rules, 2007 (hereinafter referred to as "the Rules") and Clause (c) of the notification dated 2.1.2012 (Annexure P1) issued by respondent No. 3 inviting applications for appointment to Haryana Superior Judicial Service by way of direct recruitment, in the State of Haryana, on the ground that in the impugned notification respondent No. 3 has prescribed different cut off dates for determining the eligibility with respect to the age and experience. Vide notification dated 2.1.2012, the applications were invited from candidates for filling up 14 posts in Haryana Superior Judicial Service by way of direct recruitment in the State of Haryana through competitive examination under Rule 6(1)(c) of the Rules. According to the said notification, any person who fulfills the following conditions may apply to respondent No. 3 up to 31.1.2012:-

(a) he/she must be a citizen of India;

(b) he/she must have been duly enrolled as an Advocate and has practiced for a period not less than seven years as on the last date of submission of applications i.e. 31.1.2012;

(c) he/she must have attained the age of thirty five years and must not have attained the age of forty five years as on 1st January, 2012 (in the case of Scheduled Castes/Scheduled Tribes/Backward Classes, upper age limit is relaxable by five years);

(d) he/she must not have more than one spouse living (Provided that the Governor may, if satisfied that there are special grounds for doing so, exempt any person from the operation of this sub-rule);

(e) he/she must have passed matriculation examination with Hindi as one of the compulsory or elective subjects or any other equivalent examination in Hindi language, specified by the Government from time to time.

2. In response to the said advertisement, on 20.1.2012 the petitioner had submitted his Application Form with respondent No. 3, However, the petitioner whose date of birth is 14th January, 1977, is failing short by 13 days for attaining the prescribed age of thirty five years on 1st January, 2012 as required under Clause (c) of the aforesaid notification. The petitioner is under the impression that his Application Form may be rejected on the ground of not fulfilling the condition of requisite age, therefore, he has filed the instant petition challenging the vires of Rule 11(c) of the Rules and Clause (c) of the notification (Annexure P1). His grouse is that prescribing different cut off dates for different eligibility qualifications, i.e., age and experience, is arbitrary, unreasonable and violative of Articles 14, 16 and 233 of the Constitution of India. It is contended by the petitioner that in the notification (Annexure P1) the cut off date for determining the experience of minimum seven years standing at the bar, has been fixed as 31.1.2012, whereas while determining the age eligibility of a candidate, the cut off date has been fixed as 1.1.2012. Hence Clause (c) of the notification dated 2.1.2012 as well as Rule 11(c) of the Rules are liable to be struck down, and respondent No. 3 be directed that the age eligibility should be taken from the last date of submission of Application Forms, i.e., 31.1.2012.

3. After hearing the petitioner, who appeared in person, we do not find any merit in the present petition or any illegality, arbitrariness or invalidity either in Clause (c) of the notification (Annexure P1) or Rule 11(c) of the Rules. Under Article 233 of the Constitution of India, the eligibility with respect to age has not been dealt with. Thus, by virtue of proviso to Article 309 of the Constitution of India read with Article 233, the State of Haryana in consultation with the High Court has framed the rules regulating the eligibility and conditions for appointment on the posts of District Judges/Additional District Judges.

4. Rule 11 of the Rules provides as under:-

11. The qualifications for direct recruits shall be as follows:

(a) must be a citizen of India;

(b) must have been duly enrolled as an Advocate and has practiced for a period not less than seven years;

(c) must have attained the age of thirty five years and have not attained the age of forty five years on the 1st day of January of the year in which the applications for recruitment are invited.

5. Under Rule 11(c) it has been specifically provided that a candidate must have attained the age of thirty five years and not have attained the age of forty five years on the 1st day of January of the year in which the applications for recruitment are invited. In view of the said Clause, in the advertisement it was required that a candidate, who applies against the post of Additional District Judge, must have attained the age of thirty five years and must not have attained the age of forty five years as on 1st January, 2012. In our opinion, it is for the rule making authority or the Selection Authority to fix the cut off date for fulfilling the requisite qualifications. In the present case, in view of specific requirement in Rule 11(c), the notification (Annexure P1) was issued on 2.1.2012 wherein it was required that the candidate must have attained the age of thirty five years and must not have attained the age of forty five years as on 1st January, 2012 and the experience of seven years was required to be counted on the last date of submission of applications, i.e., 31.1.2012. In the Rules, the requirement of age eligibility of not less than thirty five years and not more than forty five years age was fixed as on 1st day of the year in which the applications for recruitment are invited with an object to avoid any arbitrary fixation of date by the Selection Authority which may result into either making a particular candidate eligible or a particular candidate ineligible. Therefore, to avoid such discrimination at the hands of the Selection Authority in the Rules itself it has been provided that the eligibility with respect to the age will be determined on the 1st day of the year in which the applications are invited for appointment to Haryana Superior Judicial Service. Further in the Rules, no cut off date has been fixed for determining the experience of seven years, therefore, in the notification (Annexure P1) the cut off date for determining the experience has been fixed as 31.1.2012, which is the last date of receipt of applications. Thus, it cannot be said that the cut off date with respect to the determination of age eligibility, i.e., 1.1.2012, has been arbitrarily fixed. Therefore, to achieve the above-said object in the Rules itself the date of eligibility with respect to the age has been fixed. In our opinion, the fixing of the cut off date for determining the age eligibility in Rule 11(c) itself is not at all arbitrary or unreasonable and violative of Articles 14, 16 or 233 of the Constitution.

6. During the course of arguments, the petitioner referred to Service Rules of some other States in which the cut off date for determining the age eligibility has been fixed on the first day of January, next following the year in which the appointment is to be made. The petitioner argued that similar provisions should have been made in the Rules. This contention of the petitioner cannot be accepted. It is the prerogative of State Governments to frame the rules in a particular manner. Merely because in the Service Rules of some other States the cut off date for determining the age eligibility fixed on the first day of January, next following the year in which the appointment is to be made, is adopted, it

does not warrant that the other States are also bound to adopt the same criteria. The Rules have been framed in the year 2007 and the same are working well and now it is by chance that the petitioner is short of 13 days for attaining the prescribed age of 35 years, but it does not mean that in future his candidature will not be considered for appointment to the Haryana Superior Judicial Service in case fresh applications are invited for filling up the said posts. In our opinion, by fixing the cut off date as 1st day of January of the year in which the applications for recruitment are invited for determining the age eligibility, a particular group of persons is not excluded. It is also not the intention of the rule making authority or Selection Authority to exclude a particular person by fixing the cut off date with respect to the age. In our opinion, if the cut off date for determining the eligibility of age is fixed as 31.1.2012, as alleged by the petitioner, some candidates may become eligible and others may become ineligible. It happens to every one without any discrimination. Therefore, prescribing different cut off dates for different eligibility qualifications, i.e., age and experience, cannot be said to be arbitrary, unreasonable and violative of Articles 233, 14 and 16 of the Constitution of India. In view of the above, we do not find any merit in the petition and the same is hereby dismissed.