
(2008) 02 MP CK 0092
In the Madhya Pradesh High Court

Gendlal Patel

APPELLANT

Vs

M.P. Public Service Commission and Another

RESPONDENT

Date of Decision : 27-02-2008

Acts Referred:

Citation : (2008) ILR (MP) 1040 : (2008) 2 MPHT 390 : (2008) 2 MPJR 180

Hon'ble Judges : A.K. Patnaik, C.J;Prakash Shrivastava, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

A.K. Patnaik, C.J.

This is an appeal against the order dated 9-1-2008 passed by the learned Single Judge in W.P. No. 11133/2007 (S) filed under the Madhya Pradesh Uchcha Nyayalaya (Khand Nyayapeeth Ko Appeal) Adhiniyam, 2005.

The facts briefly are that the appellant, who was earlier serving in the Army and retired, applied pursuant to the advertisement issued by the M.P. Public Service Commission on 2-1-2006 for the post of State Civil Services. After he took examination for recruitment to the State Civil Services, he was not called for interview and he was informed later on that his candidature was not valid. As per Sub-rule (5) of Rule 6 of the Madhya Pradesh Civil Services (General Conditions of Services) Rules, 1961, (for short "the Rules"), no candidate shall be eligible for appointment to a service or post who has married before the minimum age fixed for marriage and the appellant solemnized marriage at the age of 21 years. Aggrieved, the appellant has filed Writ Petition No. 11133/2007 (S) but by the impugned order dated 9-1-2008 the learned Single Judge dismissed the writ petition. Mr. Subodh Kathar, learned Counsel appearing for the appellant submitted that Sub-rule (5) of Rule 6 of the Rules cannot be applied retrospectively to the date on which the appellant got married because Sub-rule (5) of Rule 6 of the Rules was introduced with effect from 10-3-2000.

Mr. K.S. Wadhawa, learned Counsel appearing for the respondents, on the other

hand, submitted that Sub-rule (5) of Rule 6 of the Rules is very clear that the candidate shall not be eligible for appointment to a service or post, who has married before the minimum age fixed for marriage. Rule 6 of the Rules deals with disqualification and Sub-rule (5) of Rule 6 of the Rules is extracted herein below:

Rule 6. Disqualification.:

(1) *** **

(2) *** **

(3) *** **

(4) *** **

(5) No candidate shall be eligible for appointment to a service or post who has married before the minimum age fixed for marriage.

From the very language of Sub-rule (5) of Rule 6 of the Rules, it is clear that no candidate shall be eligible for appointment to a service or post, who has married before the minimum age fixed for marriage. Sub-rule (5) of Rule 6 of the Rules was introduced with effect from 10-3-2000. Hence after 10-3-2000 a candidate who applies for appointment to a service or post, will not be eligible for appointment if he had married before the minimum age fixed for marriage. Sub-rule (5) of Rule 6 of the Rules would apply to the recruitment for the year 2003 for which the appellant was a candidate.

Now coming to the contention of the appellant that Sub-rule (5) of Rule 6 of the Rules is not retrospective in operation, it is clear from Sub-rule (5) of Rule 6 of the Rules that the minimum age of marriage as fixed by law will be determined as on the date of the marriage of the candidate. It is not the case of the appellant that on the date of his marriage, the minimum age of marriage was not 21 years. If the minimum age at the time of his marriage was 21 years and he was less than 21 years when he got married, he is not eligible under Sub-rule (5) of Rule 6 of the Rules to be a candidate for any service or post. For the aforesaid reasons, we do not find any merit in the writ appeal and we accordingly dismiss the same.