

(2012) 07 JH CK 0071
In the Jharkhand High Court
Case No : Writ Petition (S) No. 6071 of 2009

Jiura Oraon

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 17-07-2012

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2012) 07 JH CK 0071

Hon'ble Judges : Dhirubhai Naranbhai Patel, J

Bench : Single Bench

Advocate : Mrinal Kanti Roy, for the Appellant;

Final Decision : Dismissed

Judgement

Dhirubhai Naranbhai Patel, J.—The present petition has been preferred mainly for the reason that respondents have not accepted the candidature of the petitioner for the post of Primary Trained Teacher because petitioner could not produce the result/marksheet of Diploma in Primary Education course prior to cut off date fixed by the Jharkhand Public Service Commission (hereinafter referred to as J.P.S.C. for the sake of brevity). As per Clause 4 of the public advertisement dated 21st September, 2007 (Annexure 2 to the memo of the petition) result of the Teacher's Training course was to be produced within three months from the date J.P.S.C. holds the examination for the post of Primary Trained Teacher. This examination was conducted on 10th August, 2008 by the J.P.S.C. and therefore, petitioner was supposed to produce the result/marksheet of his Teacher's Training examination (In the facts of the present case, it is Diploma in Primary Education for the present petitioner) on or before 10th November, 2008. It is submitted by counsel for the petitioner that petitioner appeared in Diploma in Primary Education examination in the month of December, 2008 and the final result was published by Indira Gandhi National Open University much later and vide letter at Annexure 6 to the Memo of the petition result was submitted to the J.P.S.C. by the petitioner on 3rd August, 2009. Thus, it is submitted by the

counsel for the petitioner that the time for submission of marksheet/result of Diploma in Primary Education course may be extended for the petitioner from 10th November, 2008 till 3rd August, 2009. It is also submitted by the counsel for the petitioner that as per Clause No. 4 of the advertisement at Annexure 2 to the memo of the petition, such result/marksheet can be submitted within three months from the date on which the result of the examination conducted by J.P.S.C. was published. The J.P.S.C. has published the result of the examination of the post in question on 30th May, 2009 and therefore, on or before 30th August, 2009 petitioner has to submit result/marksheet of his diploma in Primary Education course which he has already submitted as per Annexure 6 to the memo of the petition. This aspect of the matter has not been properly appreciated by the respondents and therefore, a suitable direction may be given to the respondents to appoint the petitioner as a Primary Trained Teacher because the petitioner has already cleared the test taken by the J.P.S.C. for the post in question. Counsel for the J.P.S.C. submitted that initially a public advertisement was issued on 20th April, 2007 for 8767 posts of Primary Trained Teachers (Annexure 1 to the memo of the petition). As per this advertisement the candidate should have a Teacher's Training certificate and later on, certain relaxations have been given by the respondents and these relaxations have been published by another public advertisement dated 21st September, 2007 in a newspaper, which is at Annexure 2 to the memo of the petition and as per Clause 4 of the advertisement at Annexure 2, those candidates, who are appearing in Teacher's Training examination, can also apply for the post in question, but they have to submit the result/marksheet of Teacher's Training examination within three months from the date on which J.P.S.C. holds examination for the post of Primary Trained Teacher. It is submitted by the counsel for J.P.S.C. that examination was conducted by J.P.S.C. on 10th August, 2008, therefore, as per Clause 4 of the Public Advertisement at Annexure 2, petitioner ought to have submitted marksheet/result of his Teacher's Training examination on or before 10th November, 2008. It is further submitted by the counsel for the J.P.S.C. that case of the present petitioner is grossly time barred because as stated in the memo of the petition, especially in paragraph no. 15 that the petitioner has appeared in Diploma in Primary Education course conducted by the I.G.N.O.U. much later. As per Clause 1 of the advertisement at Annexure 2, cut off date is to be fixed by the J.P.S.C. Moreover, such a cut off date will be much prior to the declaration of result by the J.P.S.C. Thus, Clause 1 and Clause 4 of the advertisement at Annexure 2 are to be read together. Both may not be read in exclusion of each other and on a conjoint reading of Clause 1 and Clause 4, cut of date of submission of result/marksheet of Teacher's Training examination must be fixed by the J.P.S.C. prior to publication of the result and within three months of the date on which the J.P.S.C. holds such examination. The cut off date was fixed as 10th November, 2008 because examination was conducted by the J.P.S.C. on 10th August, 2008. The petitioner has admittedly submitted the result of his diploma course of Teachers Training examination in the month of August, 2009 and hence he is not entitled to be considered for the post of

Primary Trained Teacher. It is further submitted by the counsel for the J.P.S.C. that there may be vacancies in the post of Primary Trained Teacher because advertised posts are 8767 and the actual appointments may be of lesser number of candidates. This fact alone is not sufficient for appointment of the present petitioner because petitioner, as per the advertisement at Annexure 2 is not eligible and qualified for the post in question. If there are more vacancies for the post in question the petitioner will get his chance in future as and when advertisement is published for this post again in future, but the cut off date prescribed by the respondents for submission of the educational qualification certificate may not be altered by this Court otherwise J.P.S.C. can not publish final result because any candidate may approach this Court for relaxation of time limit for submission of the certificates in support of his educational certificates. It is submitted by counsel for the J.P.S.C. that to fix the cut off date is a policy decision of the respondents and this court is not sitting in appeal against such policy decision. There cannot be any cut off date fixed by the respondents which will suit all the aspiring candidates and if no cut off date is fixed future candidates will be aggrieved. This cannot be a reason for making the cut off date fluctuating and therefore, since there is no substance in the petition, same may be dismissed.

2. Having heard counsel for both sides and looking to the facts and circumstances of the case, I see no ground to entertain this writ petition mainly for the following facts and reasons:

(I) The respondents have issued a public advertisement on 20th April, 2007 for total 8767 posts of Primary Trained Teachers. This advertisement is at Annexure 1 to the memo of the petition. As per this advertisement, a candidate should be a graduate and must possess a Teacher's Training certificate. Later on, another advertisement was published amending the earlier public advertisement. The second advertisement was published on 21st September, 2007 granting certain relaxations. The relevant relaxation is that those candidates who are appearing in Teacher's Training certificate course are also eligible to apply for the post of Primary Trained Teachers, but they will have to submit that result/marksheet of Teacher's Training certificate within a period of three months from the date on which the J.P.S.C. is holding examination for the post of Primary Trained Teachers. Clause 1 and Clause 4 of this second advertisement at Annexure 2 are the relevant clauses. It further appears from the facts of the case that J.P.S.C. has conducted examination for primary Training Teachers on 10th August, 2008 and therefore, as per Clause 4 of the Public Advertisement at Annexure 2, candidate must submit the result or marksheet of Teachers training certificate course within three months, i.e. on or before 10th November, 2008. The petitioner has appeared in Final examination of his Diploma in Primary Education course conducted by the Indira Gandhi National Open University, especially in practical examination later on, i.e. in the month of December, 2008. as stated in Paragraph 15 of the memo of the petition. Thus, petitioner could not submit his result or marksheet of diploma in Primary Education course on or before 10th

November, 2008, which is a condition as per Clause 4 of Annexure 2 to the memo of the petition and hence his candidature has not been accepted by the respondents for the post in question.

(II) Counsel for the petitioner has heavily relied upon Clause 1 and Clause 4 of the advertisement at Annexure 2 to the memo of the petition and submitted that petitioner can submit his result of diploma in Primary Education Course at any time within three months from the date on which J.P.S.C. has declared the result of Primary Trained Teachers. It is submitted by the counsel for the petitioner that J.P.S.C. has declared the result on 30th May, 2009 and therefore, petitioner can submit the marksheet of Diploma in Primary Education on or before 30th August, 2009, which he did vide his letter dated Annexure 6 to the memo of the petition. This contention is not accepted by this Court, mainly for the reason that Clause 1 and 4 of the advertisement at Annexure 2 to the memo of the petition permits J.P.S.C. to fix any cut off date itself prior to the date of publication of result by J.P.S.C. for submission of marksheet of Teachers Training examination course undertaken by the candidates. Clause 1 to be read with Clause 4 of Annexure 2. As per clause 4 of Annexure 2, J.P.S.C. has already fixed a cut off date for submission of result/marksheet of Teacher's Training certificate by the candidates. As per clause 4 to Annexure 2, any candidate who is appearing in Teacher's Training course examination can apply for the post in question, but he will have to submit his result of Teacher's Training examination within three months from the date on which J.P.S.C. is conducting the examination. Thus, J.P.S.C. has conducted examination on 10th August, 2008 and therefore, last date of submission of marksheet of the candidate of his Teacher's Training examination is 10th November, 2008, whereas petitioner has appeared in the practical examination conducted by IGNOU for Diploma in Primary Education course undertaken by the petitioner in the month of December, 2008. Thus, there is violation of Condition No. 4 of Annexure 2 by the present candidate/petitioner. Clause 1 and Clause 4 of Annexure 2 cannot be read in isolation. They must be read conjointly and there is no discrepancy in Clause 1 and Clause 4 if they are read together.

(III) It is further submitted by the counsel for the petitioner that as per Annexure 6 to the memo of the petition, petitioner has already submitted his certificate of Diploma in Primary Education course on 3rd August, 2008 and some relaxation may be given by this Court by extending the time limit for submission of the educational certificates by the candidates to the J.P.S.C. This contention is also not accepted by this court because so far the fixation of cut off date is concerned, it is the power of the respondents. There cannot be any lump sum or general or wholesale relaxation in the cut off date. For the submission of the educational qualification certificates there bound to be a fixed cut off date. If this court allows this petition there will be a fluctuating cut off date and any candidate may come at any time before this Court with a prayer for relaxation of cut off date for submission of educational qualification certificate and there will not be any finalisation of the result by the J.P.S.C. at all. Even J.P.S.C. has also

written a letter to the candidates, which is at annexure 5 to the memo of the petition, dated 18th July, 2009 that petitioner has secured minimum qualifying marks, but his Teacher's Training certificate is not available and therefore, his result has not been published and therefore, he was informed that if he has his Teacher's Training certificate declared prior to 10th November, 2008, may submit it on or before 30th July, 2009. As the petitioner has no such certificate, which is issued prior to 10th November, 2008, there is no question of any relaxation to the petitioner and if such relaxation is allowed by the Court by the way of unguided sympathy, it will lead to fluctuating cut-off date or uncertain cut-off date. Such type of lump sum, general relaxation will lead to unfairness to those candidates, who have never applied for the posts in question, though they are similarly situated to the petitioner.

(IV) Fixing cut-off date for submission of marksheet of educational qualification is the discretion of the rule making authority. There cannot be any cut-off date, which can be fixed with so much mathematical accuracy and with so much statistical nicety, which can avoid hardship in all conceivable cases. Once the cut-off date is fixed, some candidates are bound to fall on the wrong side of the cut-off date. That cannot make the cut-off date, per se, arbitrary, unless the cut-off date is so "wide off the mark, as to make it wholly unreasonable.

(V) It has been held by the Hon'ble Supreme Court in the case of Dr. Ami Lal Bhat Vs. State of Rajasthan and others, at paragraph nos. 5, 7, 11:

5. This contention, in our view, is not sustainable. In the first place the fixing of a cut-off date for determining the maximum or minimum age prescribed for a post is not, per se, arbitrary. Basically, the fixing of a cut-off date for determining the maximum or minimum age required for a post, is in the discretion of the rule making authority or the employer as the case may be. One must accept that such a cut-off date cannot be fixed with any mathematical precision and in such a manner as would avoid hardship in all conceivable cases. As soon as a cut-off date is fixed there will be some persons who fall on the right side of the cut-off date and some persons who will fall on the wrong side of the cut-off date. That cannot make the cut-off date, per se, arbitrary unless the cut-off date is so wide off the mark as to make it wholly unreasonable. This view was expressed by this Court in *Union of India v. Parameswaran Match Works* and has been reiterated in subsequent cases. In the case of *A.P. Public Service Commission v. B. Sarat Chandra* the relevant service rule stipulated that the candidate should not have completed the age of 26 years on the 1st day of July of the year in which the selection is made. Such a cut-off date was challenged. This Court considered the various steps required in the process of selection and said,

when such are the different steps in the process of selection the minimum or maximum age of suitability of a candidate for appointment cannot be allowed to depend upon any fluctuating or uncertain date. If the final stage of selection is delayed and more often it happens for various reasons, the candidates who are eligible on the date of application may find themselves eliminated at the final

stage for no fault of theirs. The date to attain the minimum or maximum age must, therefore, be specific and determinate as on a particular date for candidates to apply and for the recruiting agency to scrutinise the applications.

This Court, therefore, held that in order to avoid uncertainty in respect of minimum or maximum age of a candidate, which may arise if such an age is linked to the process of selection which may take uncertain time, it is desirable that such a cut-off date should be with reference to a fixed date. Therefore, fixing an independent cut-off date, far from being arbitrary, makes for certainty in determining the maximum age.

7. In the present case, the cut-off date has been fixed by the State of Rajasthan under its Rules relating to various services with reference to the 1st of January following the year in which the applications are invited. All Service Rules are uniform on this point. Looking to the various dates on which different departments and different heads of administration may issue their advertisements for recruitment, a uniform cut-off date has been fixed in respect of all such advertisements as 1st January of the year following. This is to make for certainty. Such a uniform date prescribed under all Service Rules and Regulations makes it easier for the prospective candidates to understand their eligibility for applying for the post in question. Such a date is not so wide off the mark as to be construed as grossly unreasonable or arbitrary. The time-gap between the advertisement and the cut-off date is less than a year. It takes into account the fact that after the advertisement, time has to be allowed for receipt of applications, for their scrutiny, for calling candidates for interview, for preparing a panel of selected candidates and for actual appointment. The cut-off date, therefore, cannot be considered as unreasonable. It was, however, strenuously urged before us that the only acceptable cut-off date is the last date for receipt of applications under a given advertisement. Undoubtedly, this can be a possible cut-off date. But there is no basis for urging that this is the only reasonable cutoff date. Even such a date is liable to question in given circumstances. In the first place, making a cut-off date dependent on the last date for receiving applications, makes it more subject to vagaries of the department concerned fixed as the last date for receiving applications. A person who may fall on the wrong side of such a cut-off date may well contend that the cut-off date is unfair, since the advertisement could have been fixed later at the point of selection or appointment. Such an argument is always open. irrespective of the cut off date fixed and the manner in which it is fixed. That is why this Court has said in the case of Parameswaran Match Works and later cases that the cut-off date is valid unless it is so capricious or whimsical as to be wholly unreasonable. To say that the only cut-off date can be the last date for receiving applications, appears to be without any basis. In our view the cutoff date which is fixed in the present case with reference to the beginning of the calendar year following the date of application. cannot be considered as capricious or unreasonable. On the contrary, it is less prone to vagaries and is less uncertain.

11. In our view this kind of an interpretation cannot be given to a rule for relaxation of age. The power of relaxation is required to be exercised in public interest in a given case; as for example, if other suitable candidates are not available for the post, and the only candidate who is suitable has crossed the maximum age-limit; or to mitigate hardship in a given case. Such a relaxation in special circumstances of a given case is to be exercised by the administration after referring that case to the Rajasthan Public Service Commission. There cannot be any wholesale relaxation because the advertisement is delayed or because the vacancy occurred earlier especially when there is no allegation of any mala fides in connection with any delay in issuing an advertisement. This kind of power of wholesale relaxation would make for total uncertainty in determining the maximum age of a candidate. It might be unfair to a large number of candidates who might be similarly situated, but who may not apply, thinking that they are age-barred. We fail to see how the power of relaxation can be exercised in the manner contended.

(Emphasis supplied)

(VI) As per the aforesaid decision, it is not possible for the authority to fix a cut off date which will suit all the aspiring candidates and a cut off date, even if fixed after considering all most all the aspects, will certainly segregate the candidates, who can offer their candidature, from those, who cannot and somehow or other, there will always be some persons who will fall on the right side of the cut-off date and some, who will fall on the wrong side. But, that does not make a cut-off date arbitrary unless the cut-off date is so wide off the mark so as to make it wholly unreasonable. A cut off date is valid unless it is so capricious or whimsical as to be wholly unreasonable. These aspects apply to the facts of the present case also, where a cut-off date is fixed for submission of Teachers Training certificate so as to give a chance to apply for the post even to those persons who are yet to complete their teachers training course, i.e. who are going to appear in the final examination of Teachers Training course. But inspite of that, petitioner could not furnish the required certificate within the cut off date. It cannot be said that there is any arbitrariness on the part of the State to fix the cut off date, in the facts of the present case, because petitioner could not show that the said cut off date is so capricious or whimsical as to be wholly unreasonable showing any malafide on the part of the State.

(VII) It has been held by the Hon''ble Supreme Court in the case of Ramrao and Others Vs. All India Backward Class Bank Employees Welfare Association and Others, , at paragraph nos. 29 to 36 as under:

29. It is now well settled that for the purpose of effecting promotion, the employer is required to fix a date for the purpose of effecting promotion and, thus, unless a cut-off date so fixed is held to be arbitrary or unreasonable, the same cannot be set aside as offending Article 14 of the Constitution of India. In the instance case, the cut-off date so fixed having regard to the directions contained by the National Industrial Tribunal which had been given a

retrospective effect cannot be said to be arbitrary, irrational, whimsical or capricious.

30. The learned counsel could not point out as to how the said date can be said to be arbitrary and, thus, violative of Article 14 of the Constitution of India.

31. It is not in dispute that a cut-off date can be provided in terms of the provisions of the statute or executive order. In *University Grants Commission v. Sadhana Chaudhary* it has been observed: (SCC p. 546, para 21)

21.... It is settled law that the choice of a date as a basis for classification cannot always be dubbed as arbitrary even if no particular reason is forthcoming for the choice unless it is shown to be capricious or whimsical in the circumstances. When it is seen that a line or a point there must be and there is no mathematical or logical way of fixing it unless it can be said that it is very wide off the reasonable mark. (See *Union of India v. Parameswaran Match Works*, SCC at 310 : SCR at p. 579 and *Sushma Sharma (Dr) v. State of Rajasthan*, SCC at 66: SCR at p. 269.)

32. If a cut-off date can be fixed, indisputably those who fall within the purview thereof would form a separate class. Such a classification has a reasonable nexus with object which the decision of the Bank to promote its employees seeks to achieve. Such classifications would neither fall within the category of creating a class within class or an artificial classification so as to offend Article 14 of the Constitution of India.

33. Whenever such a cut-off date is fixed, a question may arise as to why a person would suffer only because he comes within the wrong side of the cut-off date, but, the fact that some persons or a section of society would face hardship, by itself cannot be a ground for holding that the cut-off date so fixed is ultra vires Article 14 of the Constitution.

34. In *State of W.B. v. Monotosh Roy* it was held: (SCC pp. 76-77. paras 13-15)

13. In *All India Reserve Bank Retired Officers Assn. v. Union of India* a Bench of this Court distinguished the judgment in *Nakara* and pointed out that it is for the Government to fix a cut-off date in the case of introducing a new pension scheme. The Court negated the claim of the persons who had retired prior to the cut-off date and had collected their retiral benefits from the employer. A similar view was taken in *Union of India v. P.N. Menon*. In *State of Rajasthan v. Amrit Lal Gandhi* the ruling in *P.N. Menon* case was followed and it was reiterated that in matters of revising the pensionary benefits and even in respect of revision of scales of pay, a cut-off date on some rational or reasonable basis has to be fixed for extending the benefits.

14. In *State of U.P. v. Jogendra Singh* a Division Bench of this Court held that liberalized provisions introduced after an employee's retirement with regard to retiral benefits cannot be availed of by such an employee. In that case the employee retired voluntarily on 12-4-1976. Later on, the statutory rules were

amended by notification dated 18-11-1976 granting benefit of additional qualifying service in case of voluntary retirement. The Court held that the employee was not entitled to get the benefit of the liberalized provision which came into existence after his retirement. A similar ruling was rendered in *V. Kasturi v. Managing Director State Bank of India*.

15. The present case will be governed squarely by the last two rulings referred to above. We have no doubt whatever that the first respondent is not entitled to the relief prayed for by him in the writ petition.

35. In *Vice-Chairman & Managing Director, A.P. SIDC Ltd. v. R. Varaprasad* in relation to "cut-off" date fixed for the purpose of implementation of Voluntary Retirement Scheme, it was said: (SCC p. 580, para 11)

11. The employee may continue in service in the interregnum by virtue of clause (I) but that cannot alter the date on which the benefits that were due to an employee under VRS were to be calculated. Clause (c) itself indicates that any increase in salary after the cut-off point/date cannot be taken into consideration for the purpose of calculation of payments to which an employee is entitled under VRS.

36. The High Court in its impugned judgment has arrived at a finding of fact that the Association had failed to prove any malice on the part of the authorities of the Bank in fixing the cut-off date. A plea of malice as is well known must be specifically pleaded and proved. Even such a requirement has not been complied with by the writ petitioners.

(Emphasis supplied)

(VIII) As per the above decision, a cut off date cannot be labeled as arbitrary even if no particular reason is given by the authority for fixing a particular date as cut off date unless it is considered whimsical or capricious in the circumstances. There is no mathematical or logical way of fixing it and unless very wide off the reasonable mark, it can be labelled arbitrary. Further, as held in the aforesaid case, in the present case also the petitioner could not prove any malice on the part of the State for fixing the cut off date.

(IX) It has been held by the Hon"ble Supreme Court in the case of *Union of India (UOI) and Another Vs. Parameswaran Match Works and Others*, , at paragraph no. 10, as under:

10.... That a classification can be founded on a particular date and yet be reasonable, has been held by this Court in several decisions (See *M/s. Hatisingh Mfg. Co. Ltd. v. Union of India*, *Dr. Mohammad Saheb Mahbood Medico v. Deputy Custodian General*, *M/s. Bhikuse Yamasa Kshatriya (P) Ltd. v. Union of India* and *Daruka & Co. v. Union of India*. The choice of a date as a basis for classification cannot always be dubbed as arbitrary, even if no particular reason is forthcoming for the choice unless it is shown to be capricious or whimsical in the circumstances. When it is seen that a line or a point there must be and there is

no mathematical or logical way of fixing it precisely, the decision of the Legislature or its delegate must be accepted unless we can say that it is very wide of the reasonable mark See *Louisville Gas Co. v. Alabama Power Co.* per justice Homes.

(Emphasis supplied)

(X) As has been held in the aforesaid case, in the facts of the present case also the decision of J.P.S.C. to fix a particular cut off date must be accepted, unless it can be said that it is very wide off the reasonable mark.

(XI) It has been held by the Hon"ble Supreme Court in the case of *Government of Andhra Pradesh and Others Vs. N. Subbarayudu and Others*, , at paragraph nos. 5 to 9, as under:

5. In a catena of decisions of this Court it has been held that the cut-off date is fixed by the executive authority keeping in view the economic conditions, financial constraints and many other administrative and other attending circumstances. This Court is also of the view that fixing cut-off dates is within the domain of the executive authority and the court should not normally interfere with the fixation of cut-off date by the executive authority unless such order appears to be on the face of it blatantly discriminatory and arbitrary. (See *State of Punjab v. Amar Nath Goyal*.)

6. No doubt in *D.S. Nakara v. Union of India* this Court had struck down the cut-off date in connection with the demand of pension. However, in subsequent decisions this Court has considerably watered down the rigid view taken in *Nakara* case as observed in para 29 of the decision of this Court in *State of Punjab v. Amar Nath Goyal*.

7. There may be various considerations in the mind of the executive authorities due to which a particular cut-off date has been fixed. These considerations can be financial, administrative or other considerations. The court must exercise judicial restraint and must ordinarily leave it to the executive authorities to fix the cut-off date. The Government must be left with some leeway and free play at the joints in this connection.

8. In fact several decisions of this Court have gone to the extent of saving that the choice of a cut-off date cannot be dubbed as arbitrary even if no particular reason is given for the same in the counter-affidavit filed by the Government (unless it is shown to be totally capricious or whimsical) vide *State of Bihar v. Ramjee Prasad*, *Union of India v. Sudhir Kumar Jaiswal* (vide SCC para 5), *Ramrao v. All India Backward Class Bank Employees Welfare Assn.* (vide SCC para 31), *University Grants Commission v. Sadhana Chaudhary*, etc. It follows, therefore, that even if no reason has been given in the counter affidavit of the Government or the executive authority as to why a particular cut-off date has been chosen, the court must still not declare that date to be arbitrary and violative of Article 14 unless the said cut-off date leads to some blatantly

capricious or outrageous result.

9. As has been held by this Court in *Aravali Golf Club v. Chander Hass* and in *Govt. of A.P. v. P. Laxmi Devi* the court must maintain judicial restraint in matters relating to the legislative or executive domain.

(Emphasis supplied)

(XII) As held in the aforesaid decision, it can be said in the facts of the present case that J.P.S.C. might have fixed the cut off date keeping in view the economic conditions, financial constraints and many other administrative and other attending circumstances and this Court is also of the view that fixing cut-off dates is within the domain of the executive authority and the court should not normally interfere with the fixation of cut-off date by the executive authority unless such order appears to be, on the face of it, blatantly discriminatory leading to some blatantly capricious or outrageous result.

(XIII) It has been held by the Hon'ble Supreme Court in the case of *University Grants Commission Vs. Sadhana Chaudhary and Others*, at paragraph no. 21, as under:

21. We find considerable force in the aforesaid submission of Shri Banerjee. It is settled law that the, choice of a date as a basis for classification cannot always be dubbed as arbitrary even if no particular reason is forthcoming for the choice unless it is shown to be capricious or whimsical in the circumstances. When it is seen that a line or a point there must be and there is no mathematical or logical way of fixing it precisely, the decision of the legislature or its delegate must be accepted unless it can be said that it is very wide off the reasonable mark. (See: *Union of India v. Parameshwaran Match Works* at p. 579 and *Sushma Sharma (Dr.) v. State of Rajasthan* at p. 269.) in the present case, the date, 31-12-1993, as fixed by notification dated 21-6-1995, in the matter of grant of exemption from the eligibility test for appointment on the post of lecturer has a reasonable basis keeping in view the time taken in submitting the Ph.D. Thesis or obtaining M. Phil. Degree by candidates who had undertaken the study for Ph.D. Or M. Phil. Degree prior to the issuance of the 1991 Regulations and the date, 31-12-1993, cannot be held to be capricious or whimsical or wide off the reasonable mark. The High Court of Punjab and Haryana has proceeded on the basis that the cut-off date for the purpose of granting exemption from eligibility test should have nexus with the date of the advertisement inviting applications for appointment on the post of Lecturers. The High Court was in error in taken this view. The exemption from eligibility test that has been granted under para 5 of the advertisement dated 23-1-1995 is relatable to the introduction of the requirement of eligibility test in the 1991 Regulations. The object underlying the grant of exemption is to mitigate the resultant hardship to candidates who had registered for Ph.D. Degree or had joined the course for M. Phil. Degree on the basis of the minimum qualifications prescribed under the 1982 Regulations. The validity of the fixation of cut-off date for the purpose of grant of exemption from

the eligibility test has to be considered with reference to the date of issuance of the 1991 Regulations and not with reference to the date of advertisement inviting applications for appointment on the post of Lecturers. We are, therefore, unable to uphold the direction of the High Court that it would not be necessary to appear in the eligibility test for candidates who have applied or/are applying for the Lecturers' posts pursuant to the advertisement dated 23-1-1995 if they have obtained M.Phil. Degrees or submitted Ph.D. Thesis before 31-12-1994. i.e. prior to the date of the publication of advertisement dated 23-1-1995 and the further direction to the Haryana Public Service Commission and State of Haryana to ensure that as and when any such advertisement is issued, they would bear in mind that the eligibility dates be not far off from the date of advertisement. The exemption from the requirement regarding clearing the eligibility test has to be confined within the limits indicated in the amendment introduced in the 1991 Regulations by notification dated 21-6-1995. Respondents 1 and 2 who had moved the High Court by filing the writ petition obtained their M.Phil. Degrees prior to 31-12-1993. They would be entitled to exemption from clearing the eligibility test under the terms of the notification dated 15-6-1995. The decision of the High Court, insofar as it relates to the said respondents, is not required to be disturbed and is, therefore, maintained.

(Emphasis supplied)

(XIV) In the aforesaid case also it has been held that It is settled law that the choice of a date as a basis for classification cannot always be regarded as arbitrary even if no particular reason is forthcoming for the choice unless it is shown to be capricious or whimsical in the circumstances. When it is necessary to have a cut off date and there is no mathematical or logical way of fixing it precisely, the decision of the legislature or its delegate, must be accepted unless it can be said that it is very wide off the reasonable mark.

In view of cumulative effect of the aforesaid facts, reasons and the judicial pronouncements, as there is no substance in this writ petition, it is accordingly dismissed.