
(2015) 12 JH CK 0008

In the Jharkhand High Court

Case No : W.P. (S) Nos. 5812, 5680 and 5782 of 2015

Manoj Kumar Paswan and Others

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 07-12-2015

Acts Referred:

Citation : (2016) 1 AJR 623 : (2016) 1 JLJR 466

Hon'ble Judges : Aparesh Kumar Singh, J.

Bench : Single Bench

Advocate : Gautam Kumar, Advocate, for the Appellant; Rakesh Kumar Shahi and H.K. Mehta, J.C. to A.A.G., for the Respondent

Final Decision : Dismissed

Judgement

Aparesh Kumar Singh, J.—Heard learned counsel for the parties.

2. Petitioners in W.P. (S) No. 5812 of 2015 are aggrieved by fixation of cut off date of upper age limit under Adv. No. 11/2015 issued by Jharkhand Public Service Commission (Annexure-1) in respect of recruitment to 20 posts of Civil Judge (Junior Division) in special drive. They seek that cut off date for reckoning of upper age limit should be made to the relevant date of year 2001 in place of 31st January, 2015.

3. Petitioners in W.P.(S) No. 5680 of 2015 and W.P. (S) No. 5782 of 2015 are aggrieved by fixation of cut off date for reckoning the upper age limit in the recruitment exercise conducted by Jharkhand Public Service Commission vide Adv. No. 10/2015 (Annexure-1) for a total number of 46 posts in various categories i.e., Unreserved; S.C., S.T., B.C. I and B.C. II of Civil Judge (Junior Division). These petitioners also seek fixation of cut off date for reckoning the upper age limit as on 31st January, 2010 in stead of 31st January, 2015.

4. Common grounds have been urged on the part of the counsel for the petitioners in both set of cases to seek such correction/amendment in the cut off date for reckoning the upper age limit.

5. According to the petitioners, recruitment exercise for the post of Civil Judge (Junior Division) has been held after long intervals in the State. By referring to earlier two exercises undertaken in 2008 and 2013 he has submitted that this Court in the judgments rendered in the case of Sanjeev Kumar Sahay and others vs. State of Jharkhand and others reported in (2008) 2 JLJR 543 and in the case of Bhola Nath Rajak & Ors. vs. State of Jharkhand & Ors. reported in 2014 (2) JBCJ 343 (HC) have modified the cut off date substantially from 31st January 2008 to 31st January, 2003 in respect of recruitment exercise undertaken in 2008 and from 31st January, 2013 to 31st January, 2009 in respect of recruitment exercise undertaken vide Adv. No. 4/2013. The modification of cut off date has benefited large number of interested candidate, who would have been rendered ineligible by virtue of upper age limit of 35 years stipulated under Rule 5 of Jharkhand Judicial Service (Recruitment) Rules, 2004.

6. Counsel for the petitioners have submitted that special drive has been carried out for filling up of backlog vacancies of reserved category candidate in the State for the first time. Therefore suitable cut off date of the year 2001 would ideally be prescribed instead of 31st January, 2015 as laid down under the impugned Advertisement No. 11/2015. In respect of exercise under Adv. No. 10/2011 also it is urged that the reckoning of upper age limit by a cut off date of 2010 would enable a large number of candidates eligible to participate in the exercise including the petitioners. Therefore, larger public interest would also be served.

7. Learned counsel for the respondent-State, High Court of Jharkhand and J.P.S.C. have opposed the prayer of the petitioners. It is urged on behalf of learned counsel for the respondents that the recruitment exercise in question has been held after gap of only half year, since the previous recruitment exercise for large number of vacancies was held under Adv. No. 4/2013. Therefore, the plea of the petitioners for reckoning of cut off date for consideration of upper age limit to 2001 and 2010 is not justified on any counts. There has been no delay in the present exercise. It is submitted by referring to the judgments rendered in the case of Sanjeev Kumar Sahay and others and Bhola Nath Rajak & Ors. that in both the cases, learned Court taking note of the long interregnum in holding of recruitment exercise for the post of Civil Judge (Junior Division) had considered the necessity of modifying cut off date to an early date so that large number of candidates would be eligible to participate in such exam. It could provide a larger reservoir of participating candidates. It is also submitted that in the present case, if the petitioners were eligible under Adv. No. 4/2013 by virtue of fixation of cut off date of 2009 even though otherwise they may have been age barred, they have already been allowed to avail the opportunity of relaxation in upper age limit. They cannot seek relaxation in the cut off date on each and every occasion as the said modification was done in special facts of the case as noticed in the said judgments.

8. Counsel for the respondents have also disputed the contention of the petitioners that Adv. No. 11/2015 is for filling up of backlog vacancies rather it is

only special drive in respect of certain post for S.C., S.T., B.C.-1 category. It is submitted that in Adv. No. 10/15 the post notified are across all categories. Therefore, the contention of the petitioners is not correct.

9. Learned counsel for the petitioners have referred to corrigendum being Adv. No. 1/2015 in respect of recruitment to 6th Combined Civil Services (Preliminary) Competitive Exam where cut off date has been shifted to 1st August, 2010 for the purpose of reckoning the upper age limit.

10. Learned counsel for J.P.S.C. submitted that fixation of cut off date in the said recruitment exercise is in consideration of the specific facts of the said case and upon decision taken by the State Government. No general analogy can be drawn on that basis in any other recruitment exercise.

11. I have considered the submission of the parties and gone through the relevant materials on record including the judgments relied upon. The specious reason for learned Division Bench to modify the cut off date in the recruitment exercise held in 2008 and 2013 is obvious from the reading of the judgment rendered in the case of Bholu Nath Rajak & Ors. (Supra) itself at paragraphs 8 and 11 of the report which are quoted hereunder:

"8. Admittedly no examination for filling up the post of Civil Judge (Junior Division) (Munsif) was held after 2008. In absence of regular examination for recruitment of Judicial Officers in the cadre of Civil Judge (Junior Division) (Munsif), the petitioners could not appear for the examination. In the meanwhile, the writ petitioners and similarly placed candidates have completed the maximum age of 35 years. By the reason of delay in holding the examination, the writ petitioners should not be disqualified from appearing in the examination.

11. Admittedly for recruitment to the post of Civil Judge (Junior Division) (Munsif), Jharkhand Public Service Commission issued advertisement in the year 2008 and thereafter Advertisement No. 4/2013 issued on 10.12.2013 and there is a gap of about more than 5 years between the earlier advertisement issued in the year 2008 and in the year 2013. As a consequence, the eligible candidates aspiring to appear for the Civil Judge (Junior Division) (Munsif) examination might have crossed their age between the period 2008 and 2013 and therefore, they did not have the opportunity of appearing in the examination. Having regard to the fact there was no examination for recruitment for the post of Civil Judge (Junior Division) (Munsif), the cut off date for the recruitment of Civil Judge (Junior Division) (Munsif) of 2013 (Advertisement No. 4/2013) should be 31.1.2009 to render justice to the deprived eligible candidates due to over-age. Accordingly, the cut off date for fixing maximum age of 35 years in the impugned notification is ordered to be 31.1.2009 instead of 31.1.2013."

12. As is apparent from the opinion of the learned Court, these special facts do not apply to the present recruitment exercise as it is not being held after a long interregnum. There are no other grounds urged on behalf of petitioners in support of such a prayer. Cut off date fixed under the impugned advertisement

for reckoning the upper age limit is not shown to be arbitrary or unreasonable on any demonstrable grounds. Fixation of cut off date in any such circumstances, always acts as a hardship to the candidate falling on other side of cut off date. That cannot be a ground for interference. Petitioners have therefore failed to make out a case for interference.

13. Therefore, this Court does not find any merit in the matter. Writ applications, are accordingly dismissed.