
(2013) 09 P&H CK 0151

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 20549 of 2013

Pratima Devi Ranga

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision : 19-09-2013

Acts Referred:

Citation : (2014) 173 PLR 411 : (2013) 172 PLR 566

Hon'ble Judges : Jaspal Singh, J;Ajay Kumar Mittal, J

Bench : Division Bench

Advocate : Sudhir Mittal, for the Appellant; K.K. Kareer, Registrar (Recruitment), for the Respondent

Judgement

Ajay Kumar Mittal, J.—Challenge in this writ petition filed under Articles 226/227 of the Constitution of India is to the impugned notice

dated 22.8.2013 (Annexure P-1) issued by the Registrar (Recruitment), Punjab and Haryana High Court, Chandigarh for Haryana Superior

Service Preliminary Examination, 2013. The petitioner was enrolled in the year 2000 as an Advocate with the Delhi Bar Council bearing

Enrollment No. D/1257/2000. Vide notification dated 29.4.2013 (Annexure P-3), the applications were invited for selection of 17 candidates (8

from General Category, 6 from Scheduled Caste and 3 from Backward Community) for appointment to Haryana Superior Judicial Service by way

of direct recruitment in the State of Haryana through a competitive examination under Rule 6(1)(c) of Haryana Superior Judicial Service Rules,

2007. The petitioner had applied for the post of Additional District and Sessions Judge in the State of Haryana vide application dated 28.5.2013

(Annexure P-4). However, on 22.8.2013, a notice (Annexure P-1) was published, wherein the name of the petitioner figured at Serial No. 66 and

her candidature was rejected on the ground that she was in service as Assistant Professor of Law in Maharishi Dayanand University, Rohtak,

Haryana. As per the averments made in the application, the petitioner after having practiced for more than seven years had joined service and was

working as Assistant Professor of Law in Maharishi Dayanand University, Rohtak, Haryana.

2. Learned counsel for the petitioner argued that in the advertisement inviting applications, there is no such prohibition or restriction that any

candidate who was employed at the time of application would not be considered but the only requirement was that the applicant should have

practiced for more than seven years on the date of application.

3. Notice of motion was issued. Mr. K.K. Kareer, Registrar (Recruitment) has put in appearance on behalf of respondent No. 2. He has referred

to para 102 of the judgment of the Hon''ble Apex Court in Deepak Aggarwal Vs. Keshav Kaushik and Others, to contend that it was an essential

requirement under Article 233(2) of the Constitution of India that the person with requisite period of seven years be continuing as an Advocate on

the date of application.

4. After hearing learned counsel for the petitioner and Mr. Kareer for respondent No. 2, we do not find any merit in the writ petition.

5. Article 233 of the Constitution of India provides for appointment of District Judges and it reads thus:--

233. Appointment of district judges:--

(1) Appointments of persons to be, and the posting and promotion of, district judges in any State shall be made by the Governor of the State in

consultation with the High Court exercising jurisdiction in relation to such State,

(2) A person not already in the service of the Union or of the State shall only be eligible to be appointed a district judge if he has been for not less

than seven years an advocate or a pleader and is recommended by the High Court for appointment.

6. Clause (2) of Article 233 of the Constitution of India came up for consideration before the Hon''ble Supreme Court in Deepak Aggarwal's case

(supra), wherein the Hon''ble Apex Court had interpreted the said Article which is as under:--

102. As regards construction of the expression-""if he has been for not less than

seven years an advocate"" in Article 233(2) of the Constitution, we think Mr. Prashant Bhushan was right in his submission that this expression means seven years as an advocate immediately preceding the application and not seven years any time in the past. This is clear by use of "has been". The present perfect continuous tense is used for a position which began at some time in the past and is still continuing. Therefore, one of the essential requirements articulated by the above expression in Article 233(2) is that such person must with requisite period be continuing as an advocate on the date of application.

7. According to the aforesaid judgment, an applicant was required to have practiced for at least seven years and has to continue as an Advocate on the date of application. Admittedly, the petitioner was working as Assistant Professor of Law in Maharishi Dayanand University, Rohtak, Haryana on the date of application and was not practising as an Advocate. In view of the above, we do not find any merit in the writ petition and the same is hereby dismissed.