



[2024:RJ-JP:25093-DB]

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



D.B. Civil Writ Petition No. 6735/2024

Ghanshyam Das Vijay S/o Sh. Rameshwar Prasad Vijay, Aged About 47 Years, Resident Of C-17, Alkapuri, Murlipura Scheme, Jaipur.

----Petitioner

Versus

1. Rajasthan High Court, Through Its Registrar, Jodhpur.
2. The Registrar (Examination), Rajasthan High Court, Jodhpur.

----Respondents

For Petitioner(s) : Mr. Abhishek Sharma with
Mr. GL Sharma

For Respondent(s) : Mr. AK Sharma, Senior Advocate
assisted by Mr. Vishnu Kant Sharma

**HON'BLE THE CHIEF JUSTICE MR. MANINDRA MOHAN SHRIVASTAVA
HON'BLE MR. JUSTICE BHUWAN GOYAL**

Order

REPORTABLE

27/05/2024

1. With the consent of learned counsel for the parties, the petition is heard finally.
2. The petitioner, by this petition, seeks to assail the correctness and validity of Clause 20 of the advertisement dated 09.04.2024, by which the respondents have initiated the process of recruitment to the post of Civil Judge Cadre in the State Judicial Services.
3. Quintessential facts necessary for determination of controversy involved in this petition are that the respondents have issued an advertisement on 09.04.2024 for filling up the vacancies



in the Civil Judge Cadre in the State Judicial Services. Clause 20 of the aforesaid advertisement provides for the age eligibility. It provides that a candidate for direct recruitment to the post of Civil Judge Cadre must have attained the age of 21 years and must not have attained the age of 40 years on the first day of January following (01.01.2025) the last date fixed for receipt of applications. There are two provisos attached to the aforesaid prescription with regard to age eligibility. The first one provides for relaxation of upper age limit by 5 years, in case of candidates belonging to the Scheduled Castes/Scheduled Tribes, Other Backward Classes, More Backward Classes, Economically Weaker Sections and Women Candidates. The note appended thereto also explains that the relaxation in age will be admissible in only one category. The second proviso states that the upper age limit shall be relaxed by 5 years in case of the persons with Benchmark Disabilities. It further provides that such age relaxation shall be in addition to the age relaxation already provided to different categories in Rajasthan Judicial Service Rules, 2010 (hereinafter referred to as 'the Rules of 2010'). An explanation appended to that also explains that as the last selection under the Civil Judge Cadre was held in the year 2021 and the age eligibility was determined with reference to 01.01.2022 and thereafter the next recruitment is being undertaken under the new advertisement, the age limit would be determined with reference to the date 01.01.2025, therefore, those who were eligible as on 01.01.2023, shall be deemed to be eligible.





4. The petitioner admittedly was born on 05.01.1977. As on 01.01.2023, he is barred by age as despite relaxation of 5 years granted to him, his age is more than 45 years as on 01.01.2023.

5. The aforesaid prescription in Clause 20 of the advertisement is under challenge in this petition.

6. Learned counsel for the petitioner argued in extenso to submit before this Court that the prescription of age limit with reference to 01.01.2023 is not correct in law and against the statutory prescription, as contained in Rule 17 of the Rules of 2010. Drawing attention of this Court to the provisions contained therein, he would submit that the object of the provision was to allow those candidates, who on account of non-holding of examination every year, became ineligible even though they would have been eligible, had the examination been held regularly. In his submission, the spirit of the said Rule is required to be applied in the present case. He would highlight that earlier when the advertisement was issued on 22.07.2021, similar age prescription clearly provided for eligibility strictly in accordance with the spirit of the provision contained in Rule 17. However, when advertisement was issued on 09.04.2024, impugned in this petition, Clause 20 providing for age eligibility is not in accord with the spirit of Rule 17 of the Rules of 2010.

7. Per contra, learned Senior Counsel for the respondents would submit that Clause 20 of the advertisement is strictly in accord with letter and spirit of the provision contained in Rule 17 of the Rules of 2010. Learned Senior Counsel would highlight that the relevant year is not one in which examination was held, but the year in which examination was not held, as provided in proviso



(iv) to Rule 17. Even if the advertisement would have been issued in the year 2022, on 01.01.2023, the petitioner would have been barred by age. Therefore, in the subsequent examination, he is to be treated as age barred and the Rule referred to in this petition would not come to his aid.

8. We have heard the learned counsel for the parties, perused the records and the material placed before us.

9. In the matter of determining eligibility of a candidate who appears in the examination for selection to the post of Civil Judge Cadre under the Rules of 2010, Rule 17 makes following provisions:-

"17. Age.- *A candidate for direct recruitment to the cadre of Civil Judge must have attained the age of 21 years and must not have attained the age of 40 years on the first day of January following the last date fixed for receipt of applications:*

Provided that -

(i) the upper age limit mentioned above shall be relaxed by 5 years in case of candidates belonging to the Scheduled Castes/Scheduled Tribes, Other Backward Classes, More Backward Classes, Economically Weaker Sections and Women Candidates.

(ii) Deleted

(iii) Deleted

(iv) If a candidate would have been entitled in respect of his/her age to appear at the examination in any year in which no such examination was held, he/she shall be deemed to be entitled in respect of his/her age to appear at the next following examination.

(v) If for any reason, the written examination /interview is cancelled in any particular year, it shall be open to the Recruiting Authority to grant age relaxation to the candidate to appear in the next examination.





(vi) the age relaxation for person with benchmark disabilities will be admissible as applicable in the State from time to time."

10. A fair, rational and logical interpretation of the Rule and proviso attached thereto would be that a candidate for the direct recruitment to the cadre of Civil Judge must have attained the age of 21 years and must not have attained the age of 40 years on the first day of January following the last date fixed for receipt of applications. That would mean that the candidates must not have attained the upper age limit on the first day of January following the last date fixed for receipt of applications. This necessarily mean that for the purposes of assessing the age eligibility, it is not the first day of January of the year in which the last date is fixed for receipt of applications, but the year following.

11. There are 6 provisos attached to the aforesaid provision. Proviso (iv) is intended to extend benefit to those, who would have been eligible, had the examination been held in the subsequent years, but became age barred for the reason that in successive years, examinations were not held. The provision aims at removing ineligibility on account of age, provided the candidates would have been eligible to take up the examination, had there been no gap in the recruitment process and it would have been held on year-to-year basis. If it is found that had the examination been held in the successive years, the candidate would have been eligible, proviso (iv) would come to his aid and he shall be deemed to be eligible notwithstanding the fact that he had crossed the age limit on the first day of January following the last date fixed for receipt of applications.



12. If we look into Clause 20 of the advertisement, it provides that all those candidates who were eligible as on 01.01.2023, would be deemed to be eligible for selection initiated under advertisement dated 09.04.2024. We shall now test the aforesaid prescription on the anvil of provision contained in Rule 17 (iv) of the Rules of 2010.

13. The last recruitment was held in the year 2021 when an advertisement was issued on 22.07.2021. On that day, under the Rules, the petitioner was definitely eligible in that year. Admittedly, in subsequent years i.e. 2022 and 2023, no recruitment process was undertaken. If we assume that the respondents would have initiated the process of recruitment in the year 2022, on the first date available in that year i.e. 01.01.2022, whether the petitioner was eligible to take up the examination under the then existing Rules? If we apply the provision contained in Rule 17, in case advertisement would have been issued on 01.01.2022, necessarily meaning thereby that the last date of receipt of application would have been subsequent to that and reference date for eligibility would be the first date of January, 2023.

14. Whether the petitioner was within the age limit as on 01.01.2023 is the question which is required to be decided. The date of birth of petitioner is 05.01.1977. Admittedly, he is a candidate belonging to Economically Weaker Section, therefore, he is entitled to 5 years age relaxation. Therefore, it has to be seen whether he was within the age limit as on 01.01.2023. The answer is 'No' because on that date, he had completed more than 45 years of age.



15. Even if the examination would have been held in the very next following year i.e. in the year 2022, the petitioner would not have been eligible and he was barred by age even with relaxation. If that be so, it is difficult to comprehend that a candidate who was otherwise not eligible even in the year 2022, should be granted benefit of deemed age eligibility by invoking proviso (iv) to Rule 17 of the Rules of 2010. If such an interpretation is placed on the provision contained in proviso (iv) to Rule 17 of the Rules of 2010, it would be in complete violence to the specific provision contained therein.

16. The object and purpose of providing such deemed age eligibility is to obviate hardship on account of non-holding of the examination in regular course. Therefore, by necessary implication, deemed eligibility will have to be ascertained by first examining whether candidates would have been eligible with age relaxation under the Rule, had the examination been held in the following year. If the candidate is not eligible, the provision of deemed relaxation, as contained in proviso (iv) to Rule 17 of the Rules of 2010, would not come to his aid.

17. Viewed from the aforesaid angle and based on the interpretation of the Rules as above, we are of the view that Clause 20 of the advertisement does not violate the provision contained in Rule 17 of the Rules of 2010.

18. The submission of learned counsel for the petitioner that for the purposes of granting deemed eligibility, the respondents ought to have strictly followed what was done in the year 2021, need not to be gone into by us. The age eligibility provision provided in the year 2021 was not tested by the Court, therefore, it is not



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necessary for us to go into that aspect. This Court has examined the merits of the case on the basis of extent Rules, which were in force on the date when the advertisement was issued i.e. 09.04.2024.

19. Therefore, there is no merit in the petition and the same is, accordingly, dismissed. Pending application, if any, also stands dismissed.

(BHUWAN GOYAL),J

(MANINDRA MOHAN SHRIVASTAVA),CJ

KAMLESH KUMAR-RAHUL/9