

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (S) No.3047 of 2023

1. Sagar Hansda
 2. Nitu Kujur
 3. Pallavi Hembrom
 4. Bandana Tirkey
 5. Deepanjali Marandi
 6. Naina Kumari
 7. Bhumika Priya
 8. Anal Bose
 9. Amardeep Roy
 10. Vikash Kumar
 11. Prashant Kumar Pappu
 12. Prakash Kumar
 13. Deepak Kumar
- Petitioners.

-Versus-

1. The State of Jharkhand
2. The Secretary, Department of Personnel, Administrative Reforms and Rajbhasha, Government of Jharkhand, Ranchi.
3. The Principal Secretary, Department of Agriculture, Animal Husbandry & Co-operative, Government of Jharkhand, Ranchi.
4. Jharkhand Public Service Commission, through its Chairman, Circular Road, Ranchi.

..... Respondents.

CORAM : HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioner	:	Mr. Pankaj Srivastava, Advocate
For the State	:	Mrs. Pinky Tiwari, A.C. to A.G.
For the JPSC	:	Mr. Sanjoy Piprawall, Advocate
For Intervenor	:	Mr. K. S. Nanda, Advocate

Order No.08

Date: 30.11.2023

1. The present writ petition has been filed for quashing Clause-6 of Advertisement No.4/21 to the extent of computing the minimum age of 22 years as on 01.08.2017 (subsequently modified as 01.08.2019). Further prayer has been made for issuance of direction upon the respondents to modify the cut-off date as 01.08.2021 in place of 01.08.2019 for computation of minimum age as mentioned in Clause-6 of the said advertisement issued by respondent no. 4 and to allow the

petitioners to submit their online application forms for appearing in recruitment test to be held for appointment on the post of Veterinary Doctor.

2. Learned counsel for the petitioners submits that the petitioners are graduate in Veterinary Science (Bachelor of Veterinary Science and Animal Husbandry) and are eligible to serve as Veterinary Doctors. The respondent no.4 issued an Advertisement No. 04/21 for direct recruitment to the post of Veterinary Doctor (Basic level) and as per the said advertisement, the minimum age for filling up application forms was 22 years as on 01.08.2017. Some of the qualified degree holders of B.V.Sc. & A.H. filed writ petitions being W.P.(S) Nos.1915/2021 and 1574/2021 seeking relaxation of age and during pendency of the said writ petitions, the respondent-JPSC issued a press communique on 12.01.2022, whereby the minimum age for filling up the application forms of Veterinary doctor recruitment examination was modified from 01.08.2017 to 01.08.2019. Thereafter both the said writ petitions were disposed of by observing that the grievances of the petitioners of the said writ petitions were already redressed and nothing remained to be adjudicated by the Court.
3. It is further submitted that the respondent no.4 has been issuing advertisements with respect to appointment on various posts wherein year of cut-off date for computation of age has been kept same as the year of advertisement. In Advertisement Nos.01/2023 and 02/2023 issued by the Jharkhand Staff Selection Commission, the year of the cut-off

date for computation of minimum age was the year of publication of the said advertisements. Hence, keeping the year of the cut-off date for computation of age prior to the year of advertisement is an arbitrary exercise of power as it excludes eligible young candidates from applying for the public post despite having requisite qualification.

4. Learned counsel for the intervenor- Sushil Tudu who has been allowed to address the Court vide order dated 01.11.2023 submits that the petitioners were not having requisite qualification to apply pursuant to the Advertisement No. 4/2021 as they had not obtained their bachelor degree till the last date of filling up the application form. The cut-off date for filling up the application form was 16.04.2021 and till that time the petitioners had not acquired their bachelor degree, hence were not eligible. The petitioners did not possess bachelor degree even till the extended last date of filling up the application forms i.e. 02.02.2022. It is also submitted that the Degree Course of the Bachelor in Veterinary Science & Animal Husbandry (B.V. Sc. & A.H.) consumes 5 years and 6 months' time out of which 4 Years and 6 months is for academics and one year is for compulsory internship programme to even complete the said degree course in a provisional way. Thus, provisional degree of B.V.Sc. & A.H. cannot be awarded without completion of one year compulsory internship programme.
5. Learned counsel for the respondent-State submits that the respondent no.4 issued a press communique dated 22.07.2023

containing necessary information with respect to publishing final result of provisionally selected candidates on the post of Veterinary Doctor (regular) as per Advertisement No.04/2021 and published the final result on its official website. It is further submitted that 'Relaxation of age limit' is ordinarily made where the Recruitment Rules provide for such relaxation. This Court in W.P.(S) No.289 of 2003 (Md. Shamim Anjum Vs. The State of Jharkhand & Others) with W.P.(S) No. 322 of 2003 (Md. Tahri Vs. The State of Jharkhand & Others) has held that power to relax age for appointment or to fix maximum age for appointment or to fix a cut-off date for appointment is vested with the appointing authority i.e. the State.

6. Learned counsel for the respondent-JPSC (respondent no.4) submits that the Department of Agriculture, Animal Husbandry and Co-operative, Government of Jharkhand vide its letter No.118 dated 03.02.2021 sent requisition to the JPSC to initiate selection process for appointment of Veterinary Doctors (Basic Cadre). The JPSC, on receipt of the requisition, initiated selection process for appointment of Veterinary Doctors (Basic Cadre) and, accordingly, Advertisement No.04/2021 was issued wherein the minimum age limit was fixed as 22 years as on 01.08.2017, which was subsequently amended as 01.08.2019. It is also submitted that after conducting written examination and interview, the final result of provisionally selected candidates was published on 27.07.2023.
7. Heard the learned counsel for the parties and perused the material available on record. The petitioners are seeking

issuance of direction upon the respondents to extend the cut-off date of minimum age for filling up the application form for recruitment on the post of Veterinary Doctor (Basic Level) from 01.08.2017 (subsequently modified as 01.08.2019) to 01.08.2021.

8. Thrust of the argument of the learned counsel for the petitioner is that the vacancies for the post of Veterinary Doctor (Basic Level) was advertised in the year 2021 and as such, year of the cut-off date for computing the minimum age should not have been fixed prior to the year of advertisement.
9. Before coming to the merit of the case, it would be appropriate to refer the judgment of this court rendered in the case of ***Mukesh Kumar & Others Vs. Jharkhand Public Service Commission and Another, reported in 2021 SCC OnLine Jhar 1329***, wherein it has been held as under: -

"7. So far the fixing of cut-off date for computation of upper age limit in the Advertisement No. 1/2021 is concerned, I have gone through the judgment of learned Division Bench of this Court rendered in the case of "Krishna Kumar Mishra" (supra) as cited by the learned Advocate General and the learned counsel for the JPSC, wherein after citing several judgments of the Hon'ble Supreme Court dealing with the scope of the writ court to interfere with the decision of the State/authority in fixing the cut-off date for computation of age limit, the law has been summarized as under:—

Summary of principles:

XXVIII. On the basis of the aforesaid decisions rendered by the Hon'ble Supreme Court, the law can be summarized as under:—

(i) The choice of date as a basis for classification fixed by the legislature or its delegate 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,

(ii) The cut-off date, to attain the minimum or maximum age, must be specific and determinate on a particular date and it cannot be allowed to depend upon any fluctuating or uncertain date, because it may lead to consequences, anomalies and uncertainties.

(iii) Mere errors of government in fixing of cutoff date, which may be unjust and oppressive are not subject to judicial review, it is only its palpable arbitrary exercise which can be declared void.

(iv) It is the discretion of the rulemaking authority or employer, to fix a cut-off date for determining the maximum or minimum age prescribed for a post and it cannot be, per se arbitrary, unless the cut-off date, is as wide off the mark, as to make it wholly unreasonable.

(v) A cut-off date cannot be fixed with any mathematical precision. 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 fall on the wrong side of the cut-off date and the persons falling on the wrong side cannot challenge the same, unless, it is as capricious or whimsical as to be wholly unreasonable.

(vi) There cannot be any "wholesale relaxation" on the ground that the advertisement is delayed unless, there is an allegation of any mala fides in connection with delay in issuing an advertisement. This wholesale relaxation would make total uncertainty in determining the maximum age of a candidate and it might be unfair for large number of similarly situated candidates who may not apply, thinking that they are age-barred.

(vii) A cut-off date can be provided in terms of the provisions of statute or executive order and if any hardship is caused to some persons or a section of society that may by itself cannot be a ground for holding that the cut-off date so fixed is ultra vires to Article 14 of the constitution.

(viii) The fixing of cut-off dates is within the domain of the executive authority. There may be various considerations in the mind of the executive authorities due to which a particular cut-off date is

fixed. These considerations can be financial, administrative or other considerations. Therefore 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.

8. *I have also perused the judgment of the Hon'ble Supreme court rendered in the case of "Hirandra Kumar" (supra), the relevant paragraphs of which are quoted as under:—*

23. The legal principles which govern the determination of a cut-off date are well settled. The power to fix a cut-off date or age limit is incidental to the regulatory control which an authority exercises over the selection process. A certain degree of arbitrariness may appear on the face of any cut-off or age limit which is prescribed, since a candidate on the wrong side of the line may stand excluded as a consequence. That, however, is no reason to hold that the cut-off which is prescribed, is arbitrary. In order to declare that a cut-off is arbitrary and ultra vires, it must be of such a nature as to lead to the conclusion that it has been fixed without any rational basis whatsoever or is manifestly, unreasonable so as to lead to a conclusion of a violation of Article 14 of the Constitution.

24. Several decisions of this Court have dealt with the issue. In Dr. Ami Lal Bhat v. State of Rajasthan (supra), a two judge Bench of this Court dealt with the provisions contained in the Rajasthan Medical Services (Collegiate Branch) Rules, 1962. Rule 11(1) prescribed that a candidate for direct recruitment should not have attained the age of 35 years on the first day of January following the last date fixed for the receipt of applications. Rejecting the contention that the cut-off was arbitrary, this Court held that the fixation of a cutoff prescribing maximum or minimum age requirements for a post. is in the discretion of the rule making authority. The Court held thus:—

"5 -----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 rulemaking authority or the employer as the case may be. One must accept that such a cutoff 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."

9. *Thus, it is the discretion of the rule making authority or employer to fix a cut-off date for determining the maximum or minimum age for a post and the said fixing of cut-off date can be interfered with only if the same is palpably an arbitrary exercise of power or appears to be very wide off the reasonable mark. Merely delay in advertising public posts cannot be a ground to give wholesale relaxation to those who come to the court as the same will create an uncertainty and it might be unfair for those who did not fill the form thinking themselves to be overage. Moreover, the fixing of cut off date cannot be held arbitrary merely on the ground of hardship. Since fixing of cut off date is within the domain of the executive, the court should not normally interfere with the fixation of the same unless such decision appears to be blatantly discriminatory and arbitrary on the face of it. As soon as a cut-off date is fixed, there will be some aspirants falling on the wrong side of the cut-off date, however, they may not be allowed to challenge the same unless it is capricious or whimsical."*

10. Thus, it is well settled that fixing of cut-off date for determining the maximum or minimum age required for a post is the discretion of rule making authority or the employer as the case may be. 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. As such, mere on the ground that the cut-off date fixed by the authority is causing hardship to some persons or a section of society, it cannot be held arbitrary unless the cut-off date is so

wide off the mark so as to make it wholly unreasonable. In order to declare that a cut-off date so fixed is arbitrary and ultra vires, it must be of such a nature so as to lead to a conclusion that it has been fixed without any rational basis whatsoever or is manifestly unreasonable so as to be violative of Article 14 of the Constitution of India. The court should not normally interfere with the fixation of cut-off date decided by the executive authority unless such decision appears to be blatantly discriminatory and arbitrary on the face of it.

11. In the present case, initially the cut-off date with respect to minimum age of 22 years for the appointment of Veterinary Doctor (Basic level) was fixed as 01.08.2017, however, the said cut-off date was subsequently amended from 01.08.2017 to 01.08.2019 since the vacancies were of the year 2019 and a press release for the appointment was also issued in the year 2019. Thus, this Court does not find that fixation of cut-off date with respect to minimum age limit is blatantly discriminatory and arbitrary so as to exercise the power of judicial review under Article 226 of the Constitution of India.
12. This Court has also perused Clause 3 of the "Veterinary Council of India Minimum Standards of Veterinary Education- (Bachelor of Veterinary Science and Animal Husbandry- Degree Course) Regulations, 2016" as per which the course of B.V.Sc. & A.H. is of five years six months duration and out of the said period, one year is for compulsory internship programme to complete the said degree. It is the own case of the petitioners that they had completed their compulsory internship on 27.12.2022 and

thus, in view of the Regulations 2016, they became graduate in B.V.Sc. and A.H. only on the said date. Hence, they were not eligible for filling up the forms pursuant to Advertisement No.4/2021 even till the extended date i.e. February 2022. Thus, otherwise also, the petitioners are not entitled to get any relief from this court.

13. That apart, the respondent no. 4 has already published the final result of provisionally selected candidates for the post of Veterinary Doctor on 27.07.2023 itself.
14. In view of the discussions made hereinabove, this Court does not find any reason to entertain the present writ petition and the same is, accordingly, dismissed.

Sanjay/AFR

(Rajesh Shankar, J.)