

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W. P. (S) No. 663 of 2016

1. Vivek Kumar Khanna son of Prafulit Mahatha
resident of Village & PO Banda, PS Gola,
District Ramgarh, Jharkhand
2. Bipul Kumar Sinha son of Pradip Kumar Sinha
resident of Village Kamta Barwatand, PO & PS Gola,
District Ramgarh, Jharkhand
3. Binay Kumar son of Manohar Lal, resident of Village
Purabdih, PO Kumhardaga, PS Gola, District Ramgarh,
Jharkhand
4. Uttam Kumar son of Bhagirath Mahto resident of Village
Sarla (Jara), PO & PS Gola, District Ramgarh, Jharkhand
5. Ajay Kumar Neeraj, son of Bhandu Mahto resident of
Village Purabdih, PO Kumhardaga, PS Gola,
District Ramgarh, Jharkhand
6. Gaya Ram Mahtha son of Benilal Mahtha, resident
of Village & PO Kumhardaga, PS Gola,
District Ramgarh, Jharkhand Petitioners

Versus

1. The State of Jharkhand
2. The Principal Secretary, Department of Personnel
Administrative Reforms & Rajbhasha, Government
of Jharkhand having its office at Project Building,
PO & PS Dhurwa, District Ranchi
3. Jharkhand Staff Selection Commission through its
Chairman having its office at F-49/50, Sector III,
Dhurwa, PO & PS Dhurwa, District Ranchi-834004
4. Examination Controller, Jharkhand Staff Selection
Commission, having its office at F-49/50, Sector III,
Dhurwa, PO & PS Dhurwa, District Ranchi-834004... Respondents

CORAM : HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY

For the Petitioners : Mr. Kumar Vaibhav, Advocate
For the Respondent Nos. 1 & 2 : Md. Shamim Akhtar, G.A. III
For the Respondent Nos. 3 & 4 : Md. Sohail Anwar, Senior Advocate

6/16.03.2016 In this writ application, the petitioners have prayed for a direction upon the respondents to fix the cut-off date with respect to the age as on 01.08.2010 in relation to the recruitment on the post of Block Supply Officer, Block Welfare Officer, Cooperative Extension Officer, Secretariat Assistant and Circle Inspector.

2. An advertisement being Advertisement No. 14 of 2015 for holding Joint Graduate Level Competitive Examination 2015 for making appointment for the post of Block Supply Officer, Block Welfare Officer, Cooperative Extension Officer, Secretariat Assistant and Circle Inspector was issued and the last date for making such application was

14.02.2016. In the advertisement in Clause 6, the criteria with respect to age has been fixed on the basis of cut-off date being 01.08.2015. On the cut-off date as mentioned, the minimum age limit was fixed as 21 years and the upper age limit for general category was fixed at 35 years. For those who respect with Scheduled Castes and Scheduled Tribe candidates, backward class (Scheduled I) candidate and backward class (Schedule II) candidate, the maximum age was fixed as 40 years and 37 years. The petitioners claim that although they have requisite qualification for making application to the post advertised, but they would not be eligible in view of the fact that they have crossed the maximum age limit as stipulated in the advertisement no. 14/2015. In such circumstances, this writ application has been preferred by the petitioners for fixing the cut-off date as 01.08.2010.

3. Heard Mr. Kumar Vaibhav, learned counsel appearing for the petitioners, Md. Shamim Akhtar, learned counsel appearing for the respondent nos. 1 and 2 and Md. Sohail Anwar, learned senior counsel appearing for the respondent nos. 3 and 4.

4. Mr. Kumar Vaibhav, learned counsel for the petitioners at the outset has submitted that, the writ petitioners are not seeking any relief with respect to fixation of cut-off date of age with respect to the post of Secretariat Assistant. It has been submitted by the learned counsel for the petitioners that after creation of the State of Jharkhand, no public advertisement has been issued for appointment to the post of Block Supply Officer, Block Welfare Officer and Circle Inspector. With respect to Cooperative Extension Officer, it has been submitted that the last advertisement which was issued was in the year 2006 in which 01.01.2005 was fixed as a cut-off date with respect to the age limit. It has been submitted that the cut-off date fixed in the advertisement no. 14/2015 as 01.08.2015 is irrational and arbitrary and thereby, depriving a large number of candidates who have crossed the maximum age limit in view of such cut-off date inserted in the advertisement no. 14/2015. Learned counsel further submits that the Jharkhand Staff Selection Commission should not have issued advertisement for holding a combined examination and fixing a unilateral cut-off date which does not have any reasonable nexus with the posts advertised in view of the fact that there never was any advertisement for filling up such vacancies of Block Supply Officer, Block Welfare Officer and

Circle Inspector after creation of the State of Jharkhand. Learned counsel has also by way of an example stated about the various examinations held earlier in the State of Jharkhand in which the cut-off date has not been fixed immediately preceding the date of the advertisement. He has further referred to the instructions issued by the Personnel Administrative Reforms and Rajbhasha Department, Government of Bihar which in the interests of those candidates, who have crossed the age limit in view of the non-holding of the examination in due time has been taken into consideration and guidelines have been issued so as to include such candidates within the periphery of the eligibility criteria of such candidates. In support of his contention, learned counsel has referred to the judgment in the case of **“Bhola Nath Rajak and Ors. Vs. The State of Jharkhand and Ors.”** in W.P.(S) No. 7526 of 2013.

5. Mr. Shamim Akhtar, learned G. A. has submitted that the cut-off date with respect to the minimum and maximum age limit as per advertisement no. 14/2015 has been fixed after reconsideration of the age limits determined earlier. It has been submitted that in terms of Resolution No. 609 dated 25.01.2006 issued by the Department of Personnel Administrative Reforms and Rajbhasha, Jharkhand, the maximum age for entering into government service which was earlier of 25 years of age has been subsequently enhanced keeping in mind the unemployment and the non-holding of the examination on a regular basis. It has been submitted that if the cut-off date is refixed as has been claimed by the petitioner, several eligible candidates, who fulfill the requisite criteria so far as the age limit is concerned will become ineligible and therefore while striking a balance, the decision in fixing of cut-off date is a well-considered and well thought out decision of the State Government.

6. Md. Sohail Anwar, learned senior counsel appearing for the respondent nos. 3 and 4 has submitted that the advertisement no. 14/2015 has been issued in terms of the requisition and the terms and conditions of the concerned departments of the State as well as the rules framed by the State Government namely, the Jharkhand Staff Selection Commission Graduate Standard Examination Conduct Rules, 2015. It has been submitted that the cut-off date with respect to the maximum and minimum age limit has been fixed in terms of the

said rules and the Jharkhand Staff Selection Commission does not have any authority to fix the criteria with respect to the cut-off date fixing maximum and minimum age as on the cut-off date. Learned senior counsel has further submitted that similar matters have come up before this Court in W.P.(S) No. 4619 of 2015 and W.P.(S) No. 2505 of 2015 wherein both the applications were dismissed. Submissions have therefore been advanced that since the State Government has fixed a rationale for fixing such cut-off dates, the same cannot be reverted back to an earlier date at the whims of the petitioners.

7. From the pleadings as well as the argument advanced by the learned counsel for the respective parties, the only question which falls for consideration in this writ application is that, whether the cut-off date of 01.08.2015 as per advertisement no. 14/2015 can be said to be a well considered decision based on the rationality of the facts or the same is an arbitrary action on the part of the said authorities, if it is considered that no examination or any advertisement has been issued with respect to the posts of Block Supply Officer, Block Welfare Officer and Circle Inspector after creation of the State and with respect to Cooperative Extension Officer, the last advertisement was issued in the year 2006.

8. It is not in dispute that save and except the posts of Cooperative Extension Officer and Secretariat Assistant, there never has been any advertisement issued for filling up the posts of Block Supply Officer, Block Welfare Officer and Circle Inspector. It is the consistent case of the petitioners that fixing the cut-off date of the upper and lower age limit in advertisement no. 14/2015 is wholly irrational and is not based on any well thought out reasoning. Learned G. A. has heavily relied on the Resolution of the State Government dated 25.04.2011 and 25.01.2016. Both the Resolutions are concerned with fixing the upper age limits of various categories of candidates and which are to remain in vogue for a period of 5 years. The Resolution dated 25.01.2016, extends the period of the upper age limit in government service from 01.01.2016 to 31.12.2020. The Resolution referred to by the learned G.A. is merely concerned with fixing the upper age limit of the various candidates and it cannot be said to be a rationale or a reason for fixing the cut-off date in the advertisement no. 14/2015. In the case of ***“Bhola Nath Rajak and Ors. Vs. State of Jharkhand and Ors.”***

(supra), the cut-off date of 35 years as on 31.01.2013 was preponed to 31.01.2009 and the reasons which have been enumerated in the said judgment is quoted hereinbelow:

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 that 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."

9. There has to be a reasonable nexus or a rationality when the cut-off date is fixed in an advertisement specifying the age limit and the same cannot be fixed in an arbitrary manner. A half hearted attempt has been made on behalf of the State to justify the fixation of cut-off date as 01.08.2015, but it has failed to come out with any reasonableness or with any objectivity on fixing such cut-off date. The petitioners and similar placed persons have been deprived in making any attempt to get themselves recruited on the posts as defined in the advertisement no. 14/2015. The cut-off date which has been fixed as 01.08.2015 is neither on the basis of sound reasonings nor the same has been fixed on some determinative factor and therefore such non-considerations gives a colour of arbitrariness on the State action which requires to be corrected. The State of Jharkhand should take a leaf out of the act of the State of Bihar where such disputes have been set at rest by issuance of a Resolution and eligible candidates does not get deprived of taking part in the recruitment process only on account of crossing the age limit due to non-conducting of the examination when certain candidates were eligible, but subsequently became ineligible on account of fixing a cut-off date for the upper age limit. The rationality,

reasonable nexus and well thought out reasonings which take centre stage in the decision making process while fixing the cut-off date is sorely lacking in the present case. The claim of the respondents – State that shifting the cut-off date would throw out several eligible candidates cannot be a basis for accepting the contentions of the learned Government Advocate for the State.

10. It is admitted position that no examination after the creation of the State of Jharkhand was held for filling up the posts of Block Supply Officer, Block Welfare Officer and Circle Inspector and so far as the post of Cooperative Extension Officer is concerned, the last advertisement which was issued was in the year 2006. In absence of any regular examination for the said posts, petitioners did not have any opportunity to appear in the examination and in the meantime, they have crossed the age of 35 years. Such circumstance should not make the petitioners disqualified for appearing in the examination.

11. Thus, in view of the ratio which has been laid down by the Hon'ble Division Bench in the case of “**Bhola Nath Rajak & Ors. Vs. State of Jharkhand & Ors.**” (supra) and taking into consideration the entire facts and circumstances of the case, the cut-off date for maximum age of 35 years in the impugned advertisement no. 14/2015 is refixed from 01.08.2015 to 01.08.2010.

12. Since the last date for submission of application as per the advertisement no. 14/2015 was 15.03.2016, the respondents authorities are directed to issue a corrigendum to the original advertisement by modifying the cut-off date of the upper age limit from 01.08.2015 to 01.08.2010 and extend the period of submission of the application forms to 15 days from the date of issuance of the corrigendum. The other terms and conditions of advertisement no. 14/2015 shall remain undisturbed. The relaxation in the cut-off date shall be applicable to all similar situated persons as that of the petitioners who also possess other requisite criteria in terms of advertisement no. 14/2015.

13. This writ application is allowed and disposed of with the aforesaid observations and guidelines.

(Rongon Mukhopadhyay, J)