

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 30.01.2014

W.P.(C) 249/2014 & CM 496/2014

ADVOCATE RAJENDER KUMAR DUDEJA

..... Petitioner

versus

HIGH COURT OF DELHI

..... Respondent

W.P.(C) 624/2014 & CMs 1243-1244/2014

DEEPAK ANAND

..... Petitioner

versus

THE REGISTRAR GENERAL, DELHI HIGH COURT & ORS.

..... Respondents

Advocates who appeared in these petitions:

For the Petitioners : Mr Rajender Kumar Dudeja, petitioner-in-person, in
WP(C) No.249/2014.

Mr V.P.Singh, Sr. Advocate with Mr N.S.Vasisht, Mr Vishal Singh,
Mr Arpan Sharma in WP(C) No.624/2014.

For the Respondents : Mr Rajiv Bansal, Ms Debdatta, Ms Khushboo Garg, Mr Anshit Sharma
for respondent No.1 in both the petitions.

Mr Prashant Mehta and Ms Priya Pathania for respondent Nos. 2&3 in
WP(C) No.624/2014.

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

J U D G M E N T

BADAR DURREZ AHMED, J (ORAL)

1. These writ petitions challenge the advertisement issued by the Delhi High Court in respect of the Delhi Higher Judicial Service Examination-2013. In particular, these petitions challenge the fact that the cut-off date of 01.01.2013 has been prescribed by the said advertisement when according to the petitioners the cut-off ought to be 01.01.2014.

2. The submissions have been made in the backdrop of Rule 9(3) of the Delhi Higher Judicial Service Rules, 1970. The said Rule 9 reads as under:-

“9. The qualifications for direct recruits shall be as follows:-

- (1) must be a citizen of India.
- (2) must have practised as an Advocate for not less than seven years.
- (3) must have attained the age of 35 years and have not attained the age of 45 years on the 1st day of January of the year in which the applications for appointment are invited.”

(underlining added)

3. A plain reading of the above Rule indicates that the qualifications for direct recruits require three conditions to be fulfilled. We are not concerned with the first and second conditions in the present petitions. It is only the interpretation of the third condition which is in issue in these writ petitions.

A plain reading of the third condition indicates that a prospective direct recruit must have attained the age of 35 years and must not have attained the age of 45 years on the 1st day of January of the year in which the applications for appointment are invited. The whole controversy in the present matters is—which is the year in which the applications for appointment have been invited?

4. According to the learned counsel for the Delhi High Court the year in which the applications for appointment have been invited is the year 2013 inasmuch as that is the year in which the process was initiated and the advertisements were issued. The first of the advertisements were issued on 28th -29th of December, 2013 in the national dailies including Indian Express and Hindustan (Hindi). There is no dispute with regard to this fact that the advertisements were published in the national newspapers on 28th -29th of December, 2013. There is also no dispute with regard to the fact that the said advertisements were also made available on the website of the Delhi High Court w.e.f. 30.12.2013. It so happened that one of the publications, that is, Employment News brought out the advertisement in its weekly publication on 4th -10th January, 2014. It was contended on behalf of the petitioners that since the advertisement was brought out on 4th -10th January, 2014, the year

in which the applications were invited would be 2014 and, therefore, the cut-off date would be 01.01.2014. In this context the learned senior counsel appearing for the petitioners submitted that when a series of advertisements are issued, it is the last advertisement which has to be taken into account. The last advertisement was published in the Employment News on 4th -10th January, 2014 and, therefore, according to the learned senior counsel, the relevant year would be 2014 and not 2013. Consequently, it was submitted that the cut-off date would be 01.01.2014 and not 01.01.2013.

5. It was also contended on behalf of the petitioners, in the alternative, that the year of advertisement should not be confused with the year of inviting applications. It was contended that even if the year of advertisement was taken as 2013, since the application forms were available only from 06.01.2014 to 05.02.2014, the year of inviting applications would be 2014 and not 2013. Furthermore, the last date for submission of the application forms was also 06.02.2014. It was, therefore, contended that actually the applications were invited only in 2014 and not in 2013.

6. Before we interpret the provisions of Rule 9(3) of the said Rules it would be pertinent to record the fact that although the Employment News

carried the advertisement in the week of 4th -10th January, 2014, the Delhi High Court had written to the Manager, Employment News on 27.12.2013. In the said letter it had been indicated clearly that the notice inviting applications for direct recruitment to the Delhi Higher Judicial Service was being forwarded along with the letter and that the notice be published in the Employment News on “28-12-2013 or immediately thereafter positively”. It is, therefore, evident that the Delhi High Court had requested the Manager, Employment News to publish the notice on 28.12.2013 or immediately thereafter and had also added the word “positively”, indicating clearly that the advertisement ought to be published immediately. It, however, transpired that the advertisement was published by the Employment News only in the weekly publication of 4th -10th January, 2014.

7. From the above it is clear that on the part of the Delhi High Court the advertisements were to be published on 28.12.2013. They were in fact published in national dailies on 28th -29th December, 2013 both in English and Hindi and this fact is not disputed. The notice was also put up in the website of the Delhi High Court w.e.f. 30.12.2013. Even in respect of ‘Employment News’, on the part of the Delhi High Court, it had done all it could do to publish the notice in December, 2013 itself.

8. We now come to the interpretation of Rule 9(3) of the said Rules. It is evident on a plain reading of the said Rule that applications could be invited on any date of the year. It could be the first day of the year as well as the last day. In a case where applications are invited on the 31st day of December of a particular year it is obvious that the applications would have to be submitted on a day subsequent thereto. In other words, the date of submission of applications would be in a year different from the year in which the applications are actually invited. The invitation for applications, in our view, is extended when the notice to this effect is published. In this case, the notice was published in the national dailies on 28th -29th December, 2013. And, even in respect of the advertisement in Employment News, we are of the view that insofar as the Delhi High Court is concerned it had already sent the same for publication to the Manager, Employment News on 27.12.2013 itself with the specific direction that it be published on 28.12.2013. Just because the Employment News published the advertisement on 4th -10th January, 2014 would not enable us to come to the conclusion that the applications were invited in 2014 and not in 2013.

9. Another way of looking at the case at hand is to simply ask the question—what was the notice for? Simply put, the answer is— for inviting

applications. The next question would be—when was the notice issued? The answer clearly is—in 2013. The fact that applications were to be submitted in Jan-Feb, 2014 would not alter the fact that the invitation for applications was made in December, 2013. As such, the relevant cut-off date would be 01.01.2013.

10. We may also point out that the advertisement itself specifically stipulated the cut-off date as 01.01.2013 and when a cut-off date is stipulated in the advertisement and which is not in discord with Rule 9(3) as we have interpreted, it is that date and that date alone which will have to be construed as the cut-off date.

11. In view of the foregoing, there is no merit in the petitions. The writ petitions are dismissed. There shall be no order as to costs.

Dasti.

BADAR DURREZ AHMED, J

SIDDHARTH MRIDUL, J

JANUARY 30, 2014

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