

HIGH COURT OF TRIPURA
AGARTALA

WP(C) No.139 of 2025

Dr. Ramananda Ghosh Tarafdar, Age 40 years,
Son of Sri Ranendranath Ghosh Tarafdar, resident of Village
Vidyanagar, P.O. Kirtantali, P.S. Kailashahar, District Unakoti
Tripura, PIN 799279.

..... **Petitioner(s)**

- V e r s u s -

- 1. The State of Tripura,**
To be represented by the Secretary, Department of Higher
Education, Govt. of Tripura, New Secretariat Building, New
Capital Complex, Kunjaban, P.S. New Capital Complex,
Agartala, West Tripura, PIN 799010.
- 2. The Director,**
Department of Higher Education, Govt. of Tripura, Siksha
Bhawan, Office Lane, Agartala, Tripura, 799001.
- 3. The Joint Director,**
Department of Higher Education, Govt. of Tripura, Siksha
Bhawan, Office Lane, Agartala, Tripura, 799001.
- 4. Tripura Public Service Commission,**
To be represented by the Secretary, TPSC, Government of
Tripura, New Secretariat Building, New Capital Complex,
Kunjaban, P.S. New Capital Complex, Agartala, West Tripura,
PIN 799010.

.....**Respondent(s)**

For the Petitioner(s)	:	Mr. P. Roy Barman, Senior Advocate. Mr. S. Bhattacharjee, Advocate. Mr. K. Nath, Advocate.
For the Respondent(s)	:	Mr. K. De, Addl. G.A. Mr. Raju Datta, Advocate.

Date of hearing : **28th April, 2025.**
& delivery of
Judgment & Order

Whether fit for reporting :

YES	NO
√	

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA
JUDGMENT & ORDER (ORAL)

Heard Mr. P. Roy Barman learned senior counsel assisted by Mr. K. Nath, learned counsel for the petitioner. Also heard Mr. K. De, learned Addl. G.A. for respondent nos.1 to 3 and Mr. Raju Datta, learned counsel for the Tripura Public Service Commission.

[2] The grievance of the petitioner is that the Tripura Public Service Commission (for short TPSC) issued an advertisement vide No.05/2025 (Annexure-2) for selection of candidates for recruitment to 201 permanent posts of Assistant Professor, Group-A Gazetted, Government (General) Degree Colleges under the Education (Higher) Department, Government of Tripura for different subjects/disciplines and one of such discipline was Zoology. Regarding preferred age limit for the candidates was stipulated as under:

"Age:- Maximum 40 years as on 07.03.2025. Relaxable by 5(five) years in case of SC/ST/PH candidates and Government servants. However, Government servants belonging to SC/ST/PH category will not get the further relaxation of 5(five) years which they are already entitled to get as SC/ST/PH candidates."

[3] The scope of submission of online application of the aspirant candidates were made available from 11.02.2025 to 07.03.2025 (up to 5.30 PM) which indicates that the TPSC has made that cut-off date to calculate the age to be the said last date of submission of online application. However, later on, by another

notification dated 06.03.2025 (Annexure-6), the last day of submission of online application was extended up to 17.03.2025 (5.30 PM) but without making any change in respect of said cut-off date regarding the computation of maximum age limit.

[4] According to the petitioner, generally the practice as is being followed by Teachers' Recruitment Board, Tripura (TRBT), the cut-off date for computing the age is given to be the date of issuing of advertisement and not last date of filing of application. For instance, the petitioner has also submitted one notification dated 10.02.2025 under Annexure-5 issued by said TRBT in respect of selection of Special Educator under Secondary Education Directorate, Education (School) Department, Government of Tripura. According to the petitioner, if said cut-off date in respect of computation of the upper age limit would be fixed by TPSC on the date of advertisement like TRBT, he would get the scope to appear in the said selection process. It is also further stated by him that when in the online portal he attempted to fill up the requisite application form within the stipulated period itself, same was regretted with a message that his age was not suitable for the post of Zoology despite the fact that on the date of advertisement his age was below 40 years and even on the date of filling up of said application form also, his age was below 40 years but just because the cut-off date was mentioned as 07.03.2025 in the advertisement, he was prevented from submitting such application.

With such grievances, the petitioner has filed the instant writ petition with the following reliefs:

- (i) *Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby directing the Respondents to delete the upper age limit for the post of Asstt. Professor, Group A Gazetted, Govt. General Degree College, selection process for which has been notified vide Advt. No.05/2025, issued by the Secretary, TPSC or in the alternative directing the Respondents to determine the upper age limit of the Petitioner as on the date of publication of notification.*
- (ii) *Make the rules absolute.*
- (iii) *Call for records.*
- (iv) *Pass any further order/orders as this Hon'ble High Court considered fit and proper.*

[5] Mr. P. Roy Barman, learned senior counsel argues that there was no conscious decision on the part of TPSC after taking into consideration all the pros and cons of the matter regarding fixing of said cut-off date, though ordinarily, date of advertisement is taken to be the cut-off date to compute the age of the applicant. Learned senior counsel also submits that nothing has been shown by the TPSC as to how they have assumed jurisdiction or authority to fix the said cut-off date as the last day of filing of such online application. Mr. Roy Barman, learned senior counsel also contends that as the post of Assistant Professor is a higher level post which requires regular study and vast experiences, UGC itself in its regulation has not prescribed any age bar for applying for said post but in violation of UGC regulation, such age bar has been created in the impugned advertisement. Mr. Roy Barman, learned senior counsel, therefore, submits that the petitioner may be allowed to

apply for the above said post of Assistant Professor (Zoology) inasmuch as on the date of advertisement or even on the date of filing of the application form he was within the prescribed age limit of 40 years.

[6] Mr. Raju Datta, learned counsel for the TPSC, on the other hand, opposes the prayer and submits that in the Recruitment Rules of Assistant Professor as framed by the State, the maximum age limit of 40 years has been mentioned and therefore, TPSC was/is under obligation to adhere to said condition for such direct recruitment. Mr. Datta, learned counsel also submits that said Recruitment Rules as framed by the State has not been challenged in the writ petition and therefore, the plea that UGC regulation does not prescribe any such age limitation is not acceptable. Mr. Datta, learned counsel further submits that earlier vide advertisement No.08/2022 (Annexure-R/2) similar advertisement was issued for filling up of post of Assistant Professor (Zoology) by the TPSC where similarly desirable age limit was shown to be 40 years as on the last day of receiving the application and without any least grievance in this regard, the petitioner participated in the said recruitment process but could not succeed. But, now when the petitioner has found that due to similar clause borne in the advertisement regarding computation of age, he is now challenging the same. According to Mr. Datta, learned counsel, the petitioner cannot take two contrary stands on two different occasions and therefore he is now stopped from raising

such objection. Finally, Mr. Datta, learned counsel relies on a decision of Hon'ble Supreme Court in the case of ***Hirandra Kumar vs. High Court of Judicature at Allahabad and another, (2020) 17 SCC 401*** wherein the Constitutional validity of Rule 8(1) and Rule 12 of the Uttar Pradesh Higher Judicial Service Rules, 1975 was in issue and in Rule 12 it was envisaged that a candidate for direct recruitment must attain the age of 35 years and must not have attained the age of 45 years on the first day of January next following the year in which the notice inviting application was published. Ultimately, while dealing with said issue, Hon'ble Supreme Court in Para 21 held the followings:

"21. 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."

[7] Mr. Datta, learned counsel also relies on another decision of Delhi High Court in the case of ***Shweta Chowdhery vs. High Court of Delhi Through its Registrar General, 2025 SCC OnLine Del 56*** which was also a case relating to Delhi Higher Judicial Service. In said case, on 27.12.2024, a vacancy notice was issued by the Delhi High Court inviting online application from

eligible candidates for participating in Delhi Higher Judicial Service Examination, 2024 against 25 per cent direct recruitment quota and it was also notified that application for undertaking such examination could be submitted from 27.12.2024 till 10.01.2025 and it was further stipulated that the candidate 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 i.e. on 01.01.2024. The petitioner in that case sought a modification in the criterion to the extent of fixing 01.01.2025 or, in the alternative, 10.01.2025 instead of 01.01.2024, as the cut-off date by which the candidate had to have attained the age of 35. While deciding the said issue, after examining the position of law, the Delhi High Court at Para 22 observed as follows:

"22. Four propositions emerge from these passages, each of which is of particular relevance to the controversy in issue. Firstly, the fixing of a cut-off date by which candidates would have had to attain the minimum age is permissible and, in fact, advisable, so as to impart certainty to the selection process. Secondly, there is no known principle that the cut-off date must coincide with the last date for submission of applications. Thirdly, the court would not interfere with the cut-off date fixed by the administrative authorities unless it is totally capricious, whimsical or arbitrary. Fourthly, any cut-off date, when fixed, would impact those who do not attain the requisite age, or eligibility, by then. This unavoidable hardship cannot render the fixation of the cut-off date itself arbitrary."

[8] Mr. Roy Barman, learned senior counsel on that point submits that in these cases the Recruitment Rules itself mentioned as to how the cut-off date for determination of age is to be

calculated but in the instant recruitment procedure, same is not mentioned.

[9] Mr. K. De, learned Addl. G.A. for the State also submits in the similar line as Mr. Raju Datta, learned counsel submits.

[10] This Court has considered the rival submission of the parties. As indicated above, there is specific age limit mentioned in the said Recruitment Rules of Assistant Professor making the eligibility of a candidate to apply for the post to be within 40 years of age and in case of SC/ST/PH candidates and Government servants, further relaxable by 5 years. It is also stipulated further that SC/ST/PH Government servant will not get over and above relaxation of 5 years which they are already entitled to get as SC/ST candidates. The said Rule does not specify further as to how the cut-off date for calculating the age limit should be fixed. As it appears, for not having any specific provision or guideline in the Recruitment Rules as to the said cut-off date, the TPSC in their own wisdom has fixed the cut-off date for calculating the age to be the last date of filing of the application. Same is also evident in the earlier advertisement No.08/2022 dated 27.03.2022. It is not disputed by the petitioner against the assertion of the TPSC that against said advertisement also he participated in the selection process. Now, in the same line, when again the present advertisement was issued by the TPSC, they followed the previous practice and prescribed that cut-off date to be the last date of filing

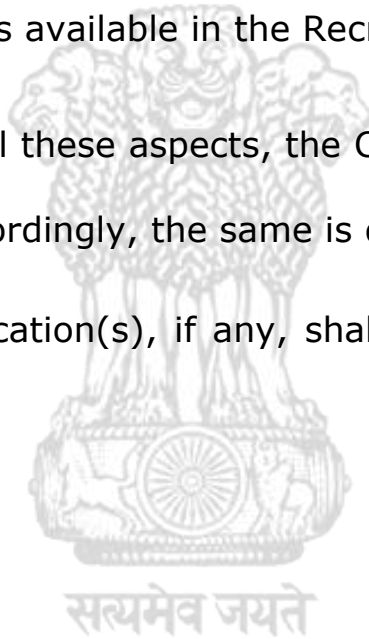
of the application. No doubt, it is either for the recruitment agency or for the employer to determine such cut-off date and unless it is totally unreasonable or arbitrary, Court should not interfere with such recruitment process. In the present case such fixation of cut off date is also not inconsistent. It is a hard reality that due to fixing of such a cut-off date, somebody may be deprived from participating in the selection process, but this alone cannot be a ground to disturb the cut-off date as fixed by the selection committee.

[11] Mr. Roy Barman, learned senior counsel though argues that nothing was shown by the TPSC as to how they assumed the jurisdiction or authority to fix the said cut-off date in this way, but in a different situation where the cut-off date is altered which favours the petitioner, similar argument also come from some other persons who are affected by fixing of such cut-off date. It is always for the administrative authority, either the employer or the selection authority, to determine such cut-off date as per their own wisdom and same cannot be interfered in a lighter approach unless any arbitrariness or unreasonableness contaminates it. It is also fact that when the TPSC adopted such procedure in the previous advertisement, it did not appear to be arbitrary or unreasonable to the petitioner and now just because his interest is going to be affected, he has challenged it.

[12] Challenges to the decisions relied on by Mr. Datta, learned counsel as made by Mr. Roy Barman, learned senior counsel that in those cases the Recruitment Rules itself mentioned as to how the cut-off date for determination of age was to be calculated and therefore same are not applicable in the instant case. But as in the instant Recruitment Rules, as indicated earlier, same is not mentioned, therefore, the selecting authority i.e. the TPSC was obliged to fix such date for due implementation of the said clause of age limit as available in the Recruitment Rules.

Considering all these aspects, the Court finds no merit in the writ petition and accordingly, the same is dismissed.

Pending application(s), if any, shall also stand disposed of.



JUDGE