

THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on: 04..05..2018
Orders Pronounced on: 09..05..2018

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN
AND
THE HONOURABLE MR. JUSTICE V.PARTHIBAN

Writ Petition Nos.11770, 9775, 10757, 11017, 11018, 11019,
11020, 11149, 11250 & 11427 of 2018

and

Writ Petition (MD) Nos.8640, 8657, 9352, 9764,
10343 & 10529 of 2018
and WMPs

S.Maruthusesshan Petitioner in W.P.No.No.11770 of 2018
S.R.Iyalpari Petitioner in W.P.No.No.9775 of 2018
C.Prithivi Petitioner in W.P.No.No.10757 of 2018
M. Nandhini Petitioner in W.P.No.No.11017 of 2018
A. Thirumani Petitioner in W.P.No.No.11018 of 2018
M. Porchezhiyan Petitioner in W.P.No.No.11019 of 2018
G. Umapathy Petitioner in W.P.No.No.11020 of 2018
M. Gurunathan Petitioner in W.P.No.No.11149 of 2018
K. Moorthy Petitioner in W.P.No.No.11250 of 2018
Ms. V. Sahaana Petitioner in W.P.No.No.11427 of 2018
S. Durgalakshmi Petitioner in W.P.(MD).No.8640 of 2018
G. Sakthi Rao Petitioner in W.P.No.No.8657 of 2018
D. Sivagama Sundari Petitioner in W.P.No.No.9352 of 2018
C. Rajiv Raja Petitioner in W.P.No.No.9764 of 2018
R. Vijayarajakumaran..... Petitioner in W.P.No.No.10343 of 2018
R. Parthi Saran Petitioner in W.P.No.No.10529 of 2018

Vs

1. The Secretary
Tamil Nadu Public Service Commission
Chennai ..1st Respondent in W.P.No.11770/2018 &
W.P.No.11427/2018.
2. The Registrar General
High Court, Madras.
..2nd Respondent in W.P.No.11770/2018,
2nd Respondent in W.P.No.11017/2018, 11018/2018,
11019/2018, 11020/2018, 4th Respondent in
W.P.No.11250/2018.
3. The State of Tamil Nadu
Rep. by its Secretary to Government Law
Department Fort St. George Chennai-600 009.
..3rd Respondent in W.P.No.11770/2018,
1st Respondent in W.P.No.10752/2018.
- The Government of Tamilnadu
Rep by its Additional Chief Secretary Home
Prohibition and Excise Department
Secretariate Fort St. George Chennai 9
..1st Respondent in W.P.No.11149/2018.
- The Government of Tamilnadu
Rep by its Principal Secretary Welfare of
Differently Abled Persons Department
Secretariate Fort St. George Chennai 9
..2nd Respondent in W.P.No.11149/2018.
- The Secretary
Tamil Nadu Public Service Commission
Frazer Bridge Road Chennai- 600 003
..3rd Respondent in
W.P.No.11017/2018, 11018/2018,
11019/2018, 11020/2018, 11149/2018, 11250/2018.
- The Government of Tamil Nadu
rep by its Secretary to Government
Home (Court) Department Secretariat, Chennai-09
..1st Respondent in
W.P.No.11017/2018, W.P.No.11018/2018,
W.P.No.11019/18, 11020/18, 11250/2018.
- The Government of Tamilnadu
Rep. by its Secretary to the Government
Welfare of Differently Abled persons
Department Secretariat Chennai-600 009.
..2nd Respondent in W.P.No.11250/2018.

The Registrar (Recruitments)
High Court of Madras Chennai.

..2nd Respondent in W.P. 11427/2018.

The Secretary
TNPSC VOC Street Park Town Chennai

..Respondent in W.P(MD) 8657/2018 & 1st
Respondent in W.P.No.9775/2018, 2nd Respondent in
W.P.No.10757/2018.

The Secretary
Bar Council of India 21 Rose Avenue
Institutional Area New Delhi-110 002

..3rd Respondent in W.P.No.10757/2018.

The Chairman
Bar Council of Tamil Nadu and Pondicherry
High Court Campus Chennai-600 104

..4th Respondent in W.P.No.10757/2018.

Tamil Nadu Public Service Commission
Rep by its Secretary
TNPSC Road, VOC Nagar
Park Town, Chennai 03.

..1st Respondent in W.P(MD) 8640/2018,
2nd Respondent in WP(MD) 10343/2018, 9352/2018, 3rd
Respondent in WP(MD) No. 9764/2018, WP(MD) 8657/2018.

Tamil Nadu Public Service Commission
Rep by it Secretary
No.1, Greams Road
Chennai 06.

..1st Respondent in W.P(MD) 10529/2018.

The State of Tamil Nadu
Rep by its Secretary to Government
Law Department, Fort. St. George
Chennai 9.

..1st Respondent in W.P(MD) 10343/2018,
9352/2018.

The Controller of Examinations
Tamil Nadu Public Service Commission
Frazer Bridge Road, VOC Nagar
Park Town, Chennai 3.

..3rd Respondent in W.P(MD) 10343/2018.

State of Tamil Nadu
Rep by the Additional Chief Secretary to Government
Home Department(Courts 1)
Secretariat Chennai 9.

..1st Respondent in W.P(MD) 9764/2018.

High Court of Judicature at Madras
Rep by the Registrar General
High Court, Madras 4.

..2nd Respondent in W.P(MD) 9764/2018
..1st Respondent in W.P(MD) 8657/2018.

The State of Tamil Nadu
Rep by its Principal Secretary
Government Home Department
Personnel and Administrative Department
Secretariat Chennai 9.

..2nd Respondent in W.P(MD) 8657/2018.

W.P. 9775/2018:

Writ of Certiorarified Mandamus calling for the records of the Respondent contained in its Notification No.8 of 2018 dated 9.4.2018 and to quash Clause 2(B) II (iv) of the said notification as arbitrary unlawful and ultra vires the Constitution of India and to consequently direct the Respondent to accept the application of the Petitioner for recruitment into Tamilnadu State Judicial Service either through online/ offline mode.

W.P.No.11770/2018:

Writ of Mandamus to direct the 1st respondent to accept the online application of the petitioner and consider the petitioners to the post of Civil Judges under notification No.8/2018 dated 09.04.2018 accepting the age of the application as on 09.04.2018.

W.P.No.10757/2018:

Writ of Certiorarified Mandamus to call for the records in Notification No.08/2018 dated 9.4.2018 on the file of the 2nd respondent and to delete the age limit set out in para 2(A) Serial No.2 for the fresh law graduates and to quash the same only in respect to it and to allow the petitioner to participate in the recruitment process.

W.P.No.11017/2018:

Writ of Certiorari to call for the records of the relating to the notification dated 9.4.2018 in Notification No.8 of 2018 by the 3rd Respondent herein in so far as the prescription of maximum limit of 27 years for fresh law graduates under clause 2 in concerned and quash the same.

W.P.No.11018/2018:

Writ of Certiorari to call for the records of the relating to the notification dated 9.4.2018 in Notification No.8 of 2018 by the 3rd Respondent herein in so far as the prescription of

maximum limit of 40 years for practicing advocates as on 1.7.2018 under clause 2 in concerned and quash the same.

W.P.No.11019/2018:

Writ of Certiorari To call for the records of the relating to the notification dated 9.4.2018 in Notification No.8 of 2018 by the 3rd Respondent herein in so far as the prescription of maximum limit of 40 years for practicing advocates as on 1.7.2018 under clause 2 is concerned and quash the same.

W.P.No.11020/2018:

Writ of Certiorari To call for the records of the relating to the notification dated 9.4.2018 in Notification No.8 of 2018 by the 3rd Respondent herein in so far as the prescription of maximum limit of 40 years for practicing advocates as on 1.7.2018 under clause 2 is concerned and quash the same.

W.P.No.11149/2018:

Writ of Certiorarified Mandamus to call for the records from the 3rd respondent pertaining to the impugned Rule 5 and Scheduled Sl. No.9 Tamil Nadu Judicial Service (Cadre and Appointment) Rules 2007 and Notification No.08/2018 dt 9.4.2018 and particularly clause 2 (A) pertaining to the age limit of the scheduled caste and quash the same in part and consequently direct the respondents to relax the age limit and consider the appointment of the petitioner .

W.P.No.11250/2018:

Writ of Certiorarified Mandamus Calling for the records from the 3rd respondents notification No.08/2018 dated 09.04.2018 relating to recruitment of Civil Judge (Post Code.2089) post reserved for GT(G) (LV) SC(G) (DAP) (LV) concerned quash the same and direct the 3rd respondent to give age relaxation for 10 years to physically handicapped candidates in pursuant of Rights of Persons with Disabilities Act 2016 read with Sec.64 of The Tamilnadu Government Servants (Conditions of Service) Act 2016.

W.P.N.11427/2018:

Writ of Certiorarified Mandamus Calling for the records pertaining to Notification No.08/2018 dated 09.04.2018 issue by the 1st respondent as it is against the fundamental rights guaranteed under the constitution and quash the maximum age limit criteria fixed as 27 years for the fresh law graduates or the minimum experience of 3 years at bar for the Advocates and direct the 1st respondent to accept the petitioners application for the post of civil judge and permit her to participate in the examinations.

W.P(MD) 8640/2018:

Petition filed under Article 226 of the constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned notification mode by the respondent notification No. 8/2018 dated 09.04.2018 and quash the same and illegal and consequently direct the respondent to allow the fresh graduate of law, then allow the practicing advocate without experience or shot out the experience from 3 years to 2 years.

W.P(MD) 8657/2018:

Petition filed under Article 226 of the constitution of India to issue a Writ of Certiorarified Mandamus calling for the entire records of the impugned Notification No. 08/2018 dated 09.04.2018 on the file of the 3rd Respondent and quash the same and consequently declare the Tamil Nadu State Judicial Service (cadre and Recruitment) Rules 2007 in para (5) Serial No. 9 of the Schedule Column(4) Qualification clause(3) Sub Clause(1) as unconstitutional and direct the 3rd Respondent to publish a fresh notification with age relaxation the maximum age limit of 40 years to fresh law graduate for Civil Judge Examination in a stipulated time period under the direct monitoring of this Court.

W.P(MD) 9352/2018:

Petition filed under Article 226 of the constitution of India to issue a Writ of Declaration to declare the Rule No.5 Schedule Sl.No. 9 of the Tamil Nadu State Judicial Service (cadre and Recruitment) Rules 2007 and the impugned Notification No 08/2018 dated 09.04.2018 issued by the 2nd Respondent and to declare the unequal fixation of age limit to fresh law graduate and experienced candidates is unconstitutional void and consequently direct the respondents to fix equal age limit and to permit petitioner for applying to the post of Civil Judge called for vide Notification No. 08/2018 issued by the 2nd Respondent.

W.P(MD) 9764/2018:

Petition filed under Article 226 of the constitution of India to issue a Writ of Mandamus directing the 2nd Respondent to consider and dispose the Petitioner representation dated 12.03.2018 and granting permission to apply for direct recruitment to the post of Civil Judge in the Tamil Nadu State Judicial Service.

W.P(MD) 10343/2018:

Petition filed under Article 226 of the constitution of India to issue a Writ of Certiorarified Mandamus calling for the records in respect of impugned notification dated 09.04.2018 and quash the clause 2(A) of the notification and consequently

direct the respondents to refix the maximum age limit for fresh law graduates on par with practicing advocates or in the alternative directing the respondents to suitably relax the existing maximum age limit of 27 years under the category of fresh law graduate in order to accommodate the secretary to apply to the post of the Civil Judge 2018.

W.P(MD) 10529/2018:

Petition filed under Article 226 of the constitution of India to issue a Writ of Certiorarified Mandamus calling for the records in pursuant to the impugned notification issued by the respondent in notification No. 08/2018 dated 09/04/2018 and quash the same so far as the cutoff date fixed the upper age limit for fresh law graduate is concerned and consequently permit the petitioner to participate in preliminary and main examination to be held for direct recruitment to the post of civil Judge in the Tamil Nadu State Judicial Service by fixing the date of notification as cutoff date for fixing the age limit in respect of notification No. 08/2018 dated 09.04.2018.

Mr.G. Mohanakrishnan	..Petitioner Counsel in W.P. 11770/2018
Mr.R.Palaniandavan	..Petitioner Counsel in W.P. 9775/2018
Mr.N. Ganeshmurthy	..Petitioner Counsel in W.P. 10757/2018
Mrs.A.L. Gandhimathi	..Petitioner Counsel in W.P.11017/2018
Mr.P. Vijendran	..Petitioner Counsel in W.P. 11149/2018
Mr.P. Saravanan	..Petitioner Counsel in W.P. 11250/2018
Mr.P. Sesubalan Raja	..Petitioner Counsel in W.P. 11427/2018
Mr.S. Durgalakshmi	Party in person in W.P(MD)8640/2018
Mr.G. Sakthi Rao	Party in person in W.P(MD)8657/2018
Mr.S. Manokaran	Petitioner Counsel in W.P(MD)9352/2018.
Mr.K. Vijayanand	Petitioner Counsel in W.P(MD)9764/2018
Mr.S.I. Muthiah	Petitioner Counsel in W.P(MD) 10343/2018.
Mr.R. Mathiyalagan	Petitioner Counsel in W.P(MD)10529/2018.

Vs

Mr.V. Kadirvelu	Spl. Govt. Pleader for Government
Mr.V. Ayyathurai,	
	Senior Counsel for Mr.B. Vijay for Registrar(RCT)
Mrs. C.N.G. Niraimathi	Standing Counsel for TNPSC

COMMON ORDER

V.BHARATHIDASAN.J.,

Challenge in W.P.Nos.11770, 9775, 10757, 11017 11018, 11019, 11020, 11250, 11427 of 2018 and W.P.(MD) No.8640, 9764, 10343 and 10529 of 0281 is either to the qualification fixing minimum and maximum age limit for practising Advocates/Pleaders

and Assistant Public Prosecutors and fresh law graduates or the essential qualifications prescribed for practising Advocates / Pleaders and Assistant Public Prosecutor and the fresh law graduates in the Notification No.08/2018 dated 09.04.2018 issued by the Tamil Nadu Public Service Commission [in short, "the respondent Commission" inviting on-line application for direct recruitment to the post of civil judge in the Tamil Nadu State Judicial Service as per the provisions prescribed under the Tamil Nadu State Judicial Service (Cadre and Recruitment) Rules 2007 as amended [hereinafter referred to as "the Rules"]].

W.P.No.11149 of 2018 and W.P.(MD) Nos.9352 and 8657 of 2018 have been filed challenging Rule, which prescribes qualifications for both practising Advocates/Pleaders and Assistant Public Prosecutors and for Fresh Law Graduates, as well as the Notification.

2. Since the issues involved in these writ petitions are common and identical, all these writ petitions were clubbed together, heard and are being disposed of by this common order.

Notification No.08/2018 dated 09.04.2018

3. Tamil Nadu Public Service Commission has issued Notification No.08/2018 dated 09.04.2018 inviting on-line applications for direct recruitment to the post of civil judge in the Tamil Nadu Judicial Service to fill up approximately 320 vacancies.

4. For easy reference, the requisite qualifications i.e., age limit and essential qualifications are extracted hereunder:-

[A] Age Limit (as on 01.07.2018)

Sl.No	Category of candidates		Minimum Age (should have completed)	Maximum Age (should not have completed)
1	For Practicing Advocates / Pleaders and Assistant Public Prosecutors	For SCs, SC(A)s, STs, MBCs/DCs, BCs, BCMs and Destitute Widows of all castes	25 Years	40 years
		Others	25 years	35 years
2	For Fresh Law Graduates	(For all Categories)	22 years	27 years

[B] Essential Qualifications (as on 09.04.2018)

I	For Practising Advocates/Pleaders and Assistant Public Prosecutors	(i) Must possess a Degree in Law of a University in India established or incorporate by or under a Central Act or a state Act or an institution recognized by the University Grants Commission, or any other equivalent qualification and got enrolled in the Bar Council of Tamil Nadu; and in the case of candidates enrolled in the Bar Councils of other States, they should submit proof of transfer of their enrollment to the Bar Council of Tamil Nadu. (ii) (a) Must be practicing as an advocate or Pleader in the High Court or Courts subordinate thereto and must have so practiced for not less than 3 years on the date of the Commission's Notification for recruitment to the post. (or) (b) Must be an Assistant Public Prosecutor having not less than 3 years of experience as an Advocate and/or Assistant Public Prosecutor.
II	For Fresh Law	(i) Must be a fresh Law Graduate Possessing a degree in law from a recognized University as mentioned in clause-I (i) above (ii) Must be eligible to be enrolled as an Advocate (iii) Must have secured an overall percentage of marks in acquiring the Bachelor's Degree of Law as below:- (a) 45% of marks in case of Reserved Categories (i.e. SCs, SC(A)s, STs, MBCs/DCs, BCs (OBCMs) and BCMs. (b) 50% Marks in case of Open Category (i.e., others) (iv) Must have obtained the Bachelor's Degree of Law within a period of three years prior to the date of notification.

5. The facts leading to the filing of these writ petitions in brief are as follows:

W.P.No.9775 of 2018

(i) The petitioner claims to be a practising Advocate. He was born on 25.02.1992. He completed his degree in B.A., L.L.B. (Hons.) in June 2014. Thereafter, he got enrolled himself as an

Advocate with the Bar Council of Tamil Nadu and Puducherry [in short, "the Bar Council"] on 09.10.2015. According to him, since the notification requires 3 years of experience for the practising Advocate, the other essential qualification that they should have completed the bachelor's degree of law within the period of three years prior to the date of notification is contrary to each other. Because of such condition, the petitioner is neither eligible to apply for the post under the category of practising Advocate not under the category of fresh law graduate. Hence, the prescription of essential qualification for fresh law graduate that they must have obtained the bachelor's degree of law within a period of three years prior to the date of notification is arbitrary.

W.P.No.11017 of 2018

(ii) The petitioner is a fresh law graduate. She was born on 17.12.1990. She completed her degree in B.L. (Hons.) in May 2016. Thereafter, she got enrolled herself as an Advocate with the Bar Council on 08.03.2018. According to the notification, the minimum age limit for fresh law graduate is 22 years and the maximum age limit is 27 years as on 01.07.2018. According to the petitioner, even though she is otherwise eligible to apply for the post under the category of fresh law graduate, since she has completed 27 years, she is not in a position to apply for the post. Further, since she has not completed three years of practice, she is not eligible to apply under the category of practising Advocate also. According to her, since there was no recruitment for the post of Civil Judges for the last 4 years, she was not in a position to apply for the post at her early age. The main grievance expressed by the petitioner is that had the respondent commission conducted examination for the recruitment of civil judges every year, she would have been in a position to appear for the examination under the category of fresh law graduate. Therefore, the notification insofar as age limit fixed for the fresh law graduate is liable to be quashed as arbitrary.

W.P.No.11018 of 2018

(iii) The petitioner claims to be a practising Advocate. He was born on 20.04.1978. He completed his degree in law (L.L.B.,) 2006. Thereafter, he got enrolled himself as an Advocate with the Bar Council on 11.10.2006. According to the notification, the maximum age limit for practising Advocate is 40 years as on 01.07.2018 whereas the notification was issued on 09.04.2018. The respondent commission without fixing the cut of date on the date of notification has fixed cut off date later to the notification and because of that, he is not eligible to apply for the post as he has crossed the age of 40 years. According to the petitioner, even though he is otherwise eligible to apply for the post under the category of practising Advocate, since he has completed 40 years as on 01.07.2018, he is not in a position

to apply for the post. According to the petitioner, since there was no recruitment for the post of Civil Judges for the last 4 years, he was not in a position to apply for the post at his early age. The only grievance expressed by the petitioner is that had the respondent commission conducted examination for the recruitment of civil judges every year, he would have been in a position to appear for the examination under the category of practising Advocate. Therefore, the notification insofar as maximum age limit fixed with cut off date 01.07.2018 for practising Advocate is liable to be quashed as arbitrary.

W.P.No.11019 of 2018

(iv) The petitioner claims to be a practising Advocate. He was born on 02.06.1978. He completed his decree in law (B.L.,) in 2005. Thereafter, he got enrolled himself as an Advocate with the Bar Council on 29.03.2006. He will complete his age of 40 only on 02.06.2018. The notification prescribes maximum age for practising Advocate as 40 years as on 01.07.2018 whereas the notification was issued on 09.04.2018. In view of the cut off date fixed as 01.07.2018 for practising Advocate, the petitioner has lost his opportunity to apply for the post even though he is otherwise eligible to apply for the post under the category of practising Advocate. Therefore, the notification insofar as maximum age limit fixed with cut off date 01.07.2018 for practising Advocate is liable to be quashed as arbitrary.

W.P.No.11020 of 2018

(v) The petitioner is a fresh law graduate. He was born on 02.03.1978. He completed his decree in B.L. in 2007. Thereafter, he got enrolled himself as an Advocate with the Bar Council on 10.10.2007. He has completed his age of 40 on 02.03.2018. According to the notification, the cut off date for maximum age limit as fixed by the respondent commission is 01.07.2018 and therefore, he has crossed the age of 40 years, therefore, if the cut of date is fixed as on the date of notification, he would be well within the age limit. Hence, he challenges the cut off date fixed in the notification.

(vi) In W.P.Nos.11017 to 11020 of 2018 yet another contention has also been raised that even though there were considerable vacancies existed, no recruitment process was undertaken in the last 4 years by the respondent commission and, therefore, the petitioners were not in a position to apply for the post of Civil Judges. Had the respondent Commission initiated recruitment process every year to fill up the existing vacancies, the petitioners would have been in a position to apply for the post earlier.

W.P.No.10757 of 2018

(vii) The petitioner is a Post Graduate in Law Degree. According to the petitioner, as per the notification issued by the respondent Commission, the maximum age limit fixed for fresh

law graduate is 27 years. Whereas Rules of Legal Education, 2008 framed by the Bar Council of India prescribes age limit for admission, according to which, the maximum age for seeking admission into an integrated 5 years law degree programme is limited to 20 years in case of general category of applicants and 22 years in case of application from SC, ST and other Backward Communities. So far as three years law degree programme is concerned, the maximum age limit is 30 years for general category and a concession of 5 further years is given to the applicants belonging to SC or ST or any other Backward Communities. Since the rules framed under Rules of Legal Education by the Bar Council of India prescribe maximum age limit as 22 years and 30 years, the respondent commission cannot restrict the age limit for fresh law graduate as 27 years which would be contrary to the rules framed by the Bar Council of India, a statutory body governing the legal education as well as the conduct of Advocates. Therefore, according to the petitioner, the impugned notice insofar as it prescribes maximum age limit for fresh law graduate is arbitrary and the same is liable to be quashed.

W.P.No.11770 of 2018

(viii) The petitioner claims to be a practising Advocate. He was born on 18.06.1991. He completed his bachelor's degree of law in June 2015 and got enrolled himself as an Advocate in the same year. According to the petitioner, he is a differently abled person with the physical deformity of 55% (post polio residual paralysis). In view of the cut off date fixed for the minimum age as 01.07.2018, the petitioner is over aged by 12 days and, therefore, he is not eligible to apply for the post. The respondent commission instead of fixing the cut off date on the date of notification, has fixed the cut of date as 01.07.2018 without any reason which is not only arbitrary but also illegal and the same is therefore, liable to be quashed.

W.P.No.11149 of 2018

(ix) The petitioner claims to be a practising Advocate. He was born on 12.07.1975. He completed his bachelor's degree of law in 2001 and got enrolled himself as an Advocate in the year 2011. He has completed 42 years. According to him, since the the maximum age limit is fixed as 40 years as on 01.07.2018, he is not eligible to apply for the post. According to him, the last recruitment for the post of Civil Judges was made in the year 2014 and for the last 4 years, even though there were considerable vacancies, no recruitment process was initiated by the respondent commission. Had the respondent commission initiated recruitment process to fill up the existing vacancies every year, the petitioner would have been within the maximum age limit to apply for the post. The grievance of the petitioner is that even though a ten years of age relaxation is provided for the differently able persons in the direct

recruitment as per the Government Order in G.O.Ms.704 dated 15.04.1964, the notification does not provide for any such age relaxation for the differently abled persons. Hence, the notification is illegal. Therefore, the petitioner challenges the Rule as well as the Notification.

W.P.No.11250 of 2018:

(x) The petitioner claims to be a practising Advocate. He was born on 17.03.1997. He completed his bachelor's degree of law in 2004 and got enrolled himself as an Advocate in the same year. According to him, he is a person with 40% blindness. He has completed 40 years and 4 months. Under the Rights of Persons with Disabilities Act, 2016 ten years of age relaxation should be given to the differently abled persons. But, the impugned notification does not provide any such age relaxation to the differently able persons. Hence, the notification is illegal.

W.P.No.11427 of 2018

(xi) The petitioner claims to be a practising Advocate. She completed her bachelor's degree of law (B.L. Hons) in 2015 and got enrolled herself as an Advocate in August 2015. On the date of notification i.e., 09.04.2018, she has not completed 3 years of practice, but, she has crossed 27 years on 25.03.2018. Because the cut off date has been fixed as 01.07.2018, she comes neither under the category of fresh law graduate nor under the category of practising Advocate. According to her, the fixation of cut off date as 01.07.2018 is highly arbitrary and baseless.

W.P.(MD) No.8640 of 2018

(xii) The petitioner claims to be a practising Advocate. She completed her bachelor's degree of law in 2016 and got enrolled herself as an Advocate in the same year. She has completed 3 years of practice. As per the notification fresh law graduate of all categories who have completed 22 years, but not completed 27 years are eligible to apply for the post. When the respondent Commission allows the fresh law graduates without any experience, they ought not to have prescribed minimum experience for the practising Advocate. According to her, even though she is eligible to apply for the post under the category of fresh law graduate, as she has now completed the age of 27 years and in view of the fixation of upper age limit, she is prevented from applying for the post under the category of fresh law graduate. Therefore, the upper age limit fixed for the fresh law graduate is in violation of Article 14(1)(g) of the Constitution of India.

W.P.(MD) No.9352 of 2018

(xiii) The petitioner claims to be a practising Advocate. She completed her bachelor's degree of law in 2017 and got enrolled herself as an Advocate in the same year. The grievance

of the petitioner is that Bar Council Rule does not prescribe age limit for admission to law degree programme, the respondent Commission ought not to have restricted the age limit for fresh law graduate as 27 years. Hence, the notification is arbitrary and illegal. Therefore, the petitioner challenges the Rule as well as the Notification.

W.P.(MD) No.9764 of 2018:

(xiv) The petitioner is a Final year student of III years Law Degree programme. He is going to take up his final year examinations which are scheduled to be held in May 2018. In the impugned notification, the cut off date has been as 01.07.2018, even before the result of the final year examinations are published and it affects his right to apply for the post and hence, the impugned notification is liable to be quashed on the ground that it violates the Article 19(1)(g) of the Constitution of India.

W.P.(MD) No.10343 of 2018

(xv) The petitioner claims to be a practising Advocate. He was born on 09.05.1991. He completed his bachelor's degree of law in 2015 and got enrolled himself as an Advocate with the Bar Council in the same year. He is eligible to apply for the post under the category of fresh law graduate. But, he is over aged by 56 days as on 01.07.2018. Hence, the fixation of cut off date as 01.07.2018 is without any rationale and the age limit for the fresh law graduate ought to have been fixed on par with the maximum age limit fixed for the practising Advocate.

W.P.(MD) No.10529 of 2018

(xvi) The petitioner claims to be a practising Advocate. He completed his bachelor's degree of law in 2016 and got enrolled himself as an Advocate in the same year. He was born on 01.06.1991. As per the notification, the maximum age limit for fresh law graduate is 27 years as on 01.07.2018. According to the petitioner, as on 01.07.2018, he is over aged by one month and as such he is not in a position to apply for the post. According to him, the cut off date fixed by the respondent commission is without any reason and there is no rationale behind it and it is also in violation of the Constitution of India. Hence, the impugned notification is liable to be quashed.

W.P.(MD) No.8657 of 2018

(xvii) The petitioner claims to be a practising Advocate. He completed his bachelor's degree of law in May, 2017 and he got enrolled as an Advocate with the Bar Council in the same year. As per the notification, the maximum age limit for fresh law graduate is 27 years as on 01.07.2018. According to the petitioner, as on 01.07.2018, he is over aged and as such even though is otherwise qualified to apply for the post under the category of fresh law graduate, he is not in a position to apply

for the post because of over aged. According to him, the cut off date fixed by the respondent commission is without any reason and there is no rationale behind it and it is also in violation of the Constitution of India. Hence, the impugned notification is illegal. Therefore, the petitioner challenges the Rule as well as the Notification.

6. The learned counsel appearing for the petitioners contended that fixation of cut of date as 01.07.2018 is highly arbitrary, unreasonable and without any rationale. When the notification has been issued on 09.04.2018, the authorities ought not to have fixed the cut of date as 01.07.2018. Because of such arbitrary fixation of the cut off date, several eligible persons have been prevented from applying for the post. Apart from that, there is no rationale behind the fixation of age limit for fresh law graduate as 27 years. The rules framed by the Bar Council of India does not prescribe any age limit for admission to the Law Degree programme. When there is no age restriction for joining law degree courses, the respondents ought not to have fixed the maximum age limit for the fresh law graduates as 27 years which is contrary to the Rules framed by the Bar Council of India.

7. So far as the differently abled persons are concerned, it is submitted by the learned counsel appearing for the respective petitioners that when the Rights of Persons with Disabilities Act, 2016 and the subsequent Government Orders prescribe age relaxation for the differently abled persons, there is no such age relaxation is given to the differently abled persons in the present notification. That apart, even though there were considerable vacancies available in the past, there was no recruitment process in the last four years. In view of the delay in conducting the recruitments into the judicial service, the petitioners have lost their opportunity to participate in the recruitment process to fill up the post of Civil Judges and now most of the candidates are barred by age. In support of their contentions, the learned counsel for the petitioners relied upon a judgement of a Division Bench of High Court of Jharkhand in Bhola Natha Rajak v. The State of Jharkhand [W.P.(S) No.7526 of 2013 dated 16.01.2014] wherein the High Court of Jharkhand permitted age relaxation in similar circumstances.

8. The Registrar General, High Court of Madras, filed counter affidavits individually in all the cases wherein it is inter alia contended that fixing of cut off date for determining the maximum or minimum age prescribed for a post is the discretion of the rule making authority or the employer. The cut off date for minimum and maximum age limit for any recruitment cannot be fixed with any mathematical precision and in such a manner as would avoid hardship in all conceivable cases. Merely

because the some of the petitioners fall on the wrong side of the cut off date, it cannot per se make the cut off date fixed by the respondent commission as arbitrary or wholly unreasonable. Apart from that the age relaxation also cannot be granted in the absence of any express provision in the Service Rules for relaxing the age qualification.

9. According to Mr.V.Ayyadurai, learned Senior Counsel appearing for the High Court, the contention of the petitioners that delay in filling up the positions of Civil Judges had deprived their opportunity of participation in the recruitment examinations, is untenable in the circumstances of the case and the delay per se in filling up the vacancies cannot be a ground to declare the cut off date as arbitrary. None of the petitioners alleged any mala fide in issuing the impugned notification. The qualification in respect of maximum and minimum age for both fresh law graduate and the practising Advocate were fixed strictly in accordance with the cadre rules and the petitioners have not chosen to challenge the constitutional validity of the rules prescribing minimum and maximum age limit to enter into the service and without challenging the statutory rules, the petitioner cannot maintain these writ petitions to challenge the notification issued by the respondent Commission. As the rules have been framed as per the proviso to Article 309 of The Constitution of India in consultation with this Court, the minimum and maximum age limit prescribed thereunder cannot be termed as arbitrary or unreasonable.

10. It is further contended that the fixing age limit for the post of Civil Judge under the relevant rules is a matter of policy and the same cannot be termed as arbitrary or unreasonable. Based on the recommendation of the First National Judicial Pay Commission, the High Court of Madras has decided to fix the minimum age for direct recruitment to the post of Civil Judges and amendments have also been made in the rules. Pursuant to the observations made by the Honourable Supreme Court in S.Sethu Mahendran's case [S.L.P. (Civil) No.9180 of 2012 order dated 15.09.2014], certain amendments were also made to Rule 5 of the Rules. So far as the reservation to the differently abled persons is concerned, after the new Act namely, The Rights of Persons with Disabilities Act, 2016, came into force, the Government of Tamil Nadu issued an order in G.O.Ms.No.21, Welfare of Differently Abled Persons Department, dated 30.05.2017 providing 4% reservation for differently abled persons. Pursuant to the same, the High Court also proposed an amendment to Rule 10 of the Rules in respect of reservation in appointment for the post of Civil Judge / District Judge (Entry Level) for differently abled persons and requested the Government to issue necessary orders. Thereafter, the Government of Tamil Nadu has issued G.O.Ms.No.52, Welfare of Differently

Abled Persons Department, dated 28.12.2017 identifying suitability of categories for the post of Civil Judge and District Judge (Entry Level). Thereafter, Rule 10 has also been amended.

11. It is also contended that the cut off date for age and educational qualification has been prescribed in terms of Tamil Nadu Government Servants' (Condition of Service) Act, 2016 (TN Act 14 of 2016) and the same has been adopted in the impugned rules. It is also specifically contended that the age limit fixed in the rules was based only on the recommendations made by the First National Judicial Commission headed by Mr. Justice K. Jagannatha Shetty, Former Judge, Supreme Court of India [in short, "the Shetty Commission"] and the Honourable Supreme Court accepted the recommendations of the Shetty Commission in All India Judges Association v. Union of India, AIR 2002 SC 1752 and issued various directions. Pursuant to the above directions of the Hon'ble Supreme Court, rules have been amended suitably. In the above said circumstances, the petitioners cannot raise any valid objection in the matter of fixation of age limit and also educational qualification.

12. The learned senior counsel would further contend that the qualification prescribed in the impugned notification was pursuant to the rules. Without challenging the rules, the petitioners cannot maintain the writ petition challenging the notification fixing the essential qualifications. Hence, the writ petitions which do not challenge the validity of the rules are not maintainable.

13. According to the learned senior counsel, so far as the fixation of age limit is concerned, it is the discretion of the employer. In the absence of any allegation of mala fide, the petitioner cannot question the fixation of age limit. Apart from that, the cut off date has been fixed strictly in compliance with the Tamil Nadu Government Servants' (Condition of Service) Act, 2016 [hereinafter referred to as "the Act"]. Section 20(4) (iii) of the Act prescribes the cut off date as 1st July of the year in which vacancy notified. Since the above provision is applicable to the direct recruitment to the post of Civil Judges, the cut off date has been fixed as 01.07.2018 and there is no arbitrariness in the same. That apart, the notification also clearly states that the provisions contained in Sections 63, 64 of the Act which deal with age relaxation to the differently abled persons are not specifically made applicable to the present recruitment. Hence, no age relaxation is given to the differently abled persons.

14. So far as the delay in recruitment is concerned, the learned senior counsel would submit that based on the directions issued by the Hon'ble Supreme Court in Sethu Mahendran's case,

rules were sought to be amended and subsequently, after the Rights of Persons with Disabilities Act, 2016 came into force, there were several deliberations between the High Court and the State Government and thereafter, the rules have been amended on 28.12.2017. In view of the proceedings for amendment to the Rules, there had occurred delay and hence, no mala fide can be attributed to the respondents for the delay in conducting recruitment examination.

15. So far as the petitioner in W.P.No.11149 of 2018 is concerned, according to the learned senior counsel, in an earlier selection for Civil Judges in the year 2014, the petitioner was selected, subsequently his selection was rejected by the appointment committee of the High Court on the ground that he had suppressed the pendency of criminal cases against him. According to the learned senior counsel, now, the petitioner filed the present writ petition without disclosing the above facts. Since some criminal cases are still pending against the petitioner, he is not eligible to participate in the recruitment examination. The learned senior counsel in support of his contentions relied on various judgements of the Hon'ble Supreme Court as well as this court about which we would make reference at appropriate stages of this order.

16. We have heard the learned counsel for the respective petitioner; the learned Special Government Pleader for State; the learned Senior Counsel for High Court and the learned standing counsel for the respondent Commission and also perused the records carefully.

17. Before adjudicating upon the issues involved in these writ petitions, it is necessary to trace back the history regarding fixation of age limits for direct recruitment to the post of Civil Judges from among practising Advocate and fresh Law graduates.

18. Earlier the fixation of minimum / maximum qualifications for recruitment to the post of civil judges at the lowest level in the subordinate judiciary were not uniform in all the States. The Hon'ble Supreme Court of India in All India Judges' Association v. Union of India, [(1993) 4 SCC 288] has held that only a practising Advocate who is having experience alone can discharge the duties and functions of judges efficiently with confidence and circumspection. Hence prescribed a period of minimum three years of practice as Advocate as one of the essential qualifications for recruitment as the Judicial Officer at the lowest rung in the judicial hierarchy. The Hon'ble Supreme Court had also directed the State Governments to take immediate action and prescribe a period of minimum three years practice as an Advocate as one of the essential qualifications. Apart from that, the Hon'ble Supreme

Court has also issued various directions regarding fixation of age of retirement and also salary and allowances of the subordinate judges. Based on the above directions, the Government of India had constituted the First National Judicial Pay Commission under the Chairmanship of Mr. Justice K. Jagannatha Shetty, with various terms of reference, and one of the terms of reference to the Commission was to examine and recommend in respect of minimum qualifications of age, method of recruitment, etcetera, for judicial officers. Accordingly, the Commission submitted its report wherein apart from fixing qualification for the practising Advocates with certain period of experience at Bar, the Commission also recommended for recruitment to the post of Civil Judges from among the fresh outstanding law graduates with exemplary merit and aptitude. The relevant portion of the recommendation of the Shetty Commission reads as follows:-

"8.35 If intensive training is given to young and brilliant law graduates, it may be unnecessary to prescribe three years practice in the Bar as a condition for entering the judicial service. It is not the opinion of any High Court or State Government that induction to service of fresh law graduates with brilliant academic career would be counter-productive. We consider that it is proper and necessary to reserve liberty to High Court and State Governments, as the case may be, to select either Advocates with certain standing at the Bar or outstanding law graduates with aptitude for service. It is not correct to deny such discretion to High Authorities like, High Courts and State Governments."

19. The Shetty Commission also recommended for fixation of higher age limit. The relevant paragraph of the report reads as follows:-

8.40 While recommending the maximum age for recruitment of Civil Judges (Jr. Divn.), it is necessary to bear in mind the maximum age suggested by the Commission for direct recruitment of District Judges. There, we have indicated that the candidates should be between 35 and 45 years. Therefore, it is not proper to prescribe any age beyond 35 for selection to Civil Judges (Jr. Divn.).

20. Accepting the recommendations made by the Shetty Commission, the Hon'ble Supreme Court in All India Judges' Association v. Union of India, (2002) 4 SCC 247 issued a direction to the State Governments to amend the rules so as to enable the fresh law graduates who have not completed three years of practice to be eligible for competing and entering the

judicial service. The relevant paragraph of the judgement reads as follows:-

"32. In All India Judges' Assn. case [(1993) 4 SCC 288 : 1994 SCC (L&S) 148 : (1993) 25 ATC 818] (SCC at p. 314) this Court has observed that in order to enter the judicial service, an applicant must be an advocate of at least three years' standing. Rules were amended accordingly. With the passage of time, experience has shown that the best talent which is available is not attracted to the judicial service. A bright young law graduate after 3 years of practice finds the judicial service not attractive enough. It has been recommended by the Shetty Commission after taking into consideration the views expressed before it by various authorities, that the need for an applicant to have been an advocate for at least 3 years should be done away with. After taking all the circumstances into consideration, we accept this recommendation of the Shetty Commission and the argument of the learned amicus curiae that it should be no longer mandatory for an applicant desirous of entering the judicial service to be an advocate of at least three years' standing. We, accordingly, in the light of experience gained after the judgment in All India Judges case direct to the High Courts and to the State Governments to amend their rules so as to enable a fresh law graduate who may not even have put in three years of practice, to be eligible to compete and enter the judicial service. We, however, recommend that a fresh recruit into the judicial service should be imparted training of not less than one year, preferably two years."

21. In the above cited judgement, the Hon'ble Supreme Court has held that any clarification that may require arising out of the decision will be sought only from the Hon'ble Supreme court. The relevant portion of the judgement reads as follows:-

"40. Any clarification that may be required in respect of any matter arising out of this decision will be sought only from this Court. The proceedings, if any, for implementation of the directions given in this judgment shall be filed only in this Court and no other court shall entertain them."

22. Pursuant to the directions issued by the Hon'ble Supreme Court in All India Judges' Association v. Union of India, (2002) 4 SCC 247, the Tamil Nadu State Judicial Service [Cadre and Recruitment Rules], 2007 has been suitably amended.

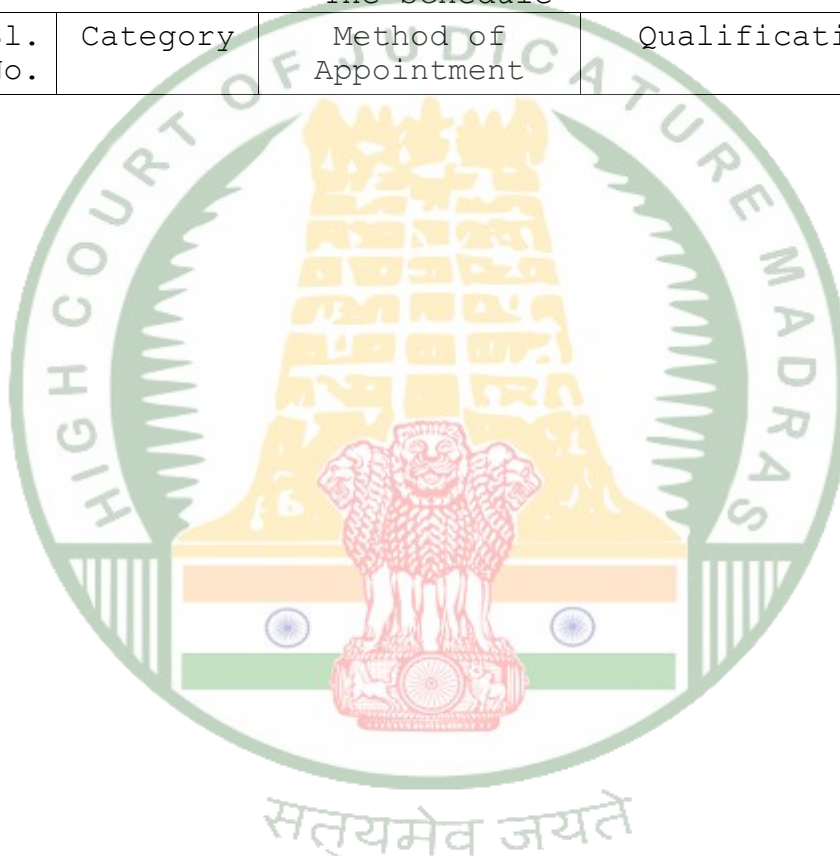
23. So far as the appointment and qualifications of Civil Judges are concerned, Rule 5(9) of the Rules deals with the same and the amended Rule 5 (9) of the Rules, reads as follows:-

5. Method of appointment, Qualification and Age:-

In respect of each category of posts specified in Column (1) of the Schedule below, the method of appointment and the qualifications shall be specified in the corresponding entries in columns (2) and (3) thereof and the respective Annexure thereof:-

The Schedule

Sl. No.	Category	Method of Appointment	Qualification
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9	Civil Judge	By direct recruitment on the basis of written examination and vivavoce Examination conducted by the Tamil Nadu Public Service Commission in accordance with the rules specified in the Annexure II to these Rules. (1) Must possess a Degree in Law of a University in India established or incorporate by or under a Central Act or a state Act or an institution recognized by the University Grants Commission, or any other equivalent qualification and got enrolled in the Bar Council of Tamil Nadu; and in the case of candidates enrolled in the Bar Councils of other States, they should submit proof of transfer of their enrollment to the Bar Council of Tamil Nadu. And (2) Must be practicing as an advocate or Pleader in the High Court or Courts subordinate thereto and must have so practiced for not less than 3 years on the date of the Commission's Notification for recruitment to the post. (or) Must be an Assistant Public Prosecutor having not less than 3 years of experience as an Advocate and/or Assistant Public Prosecutor.
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24. The first and foremost contention of the petitioners to be dealt with is that the cut off date fixed by the respondent commission as 01.07.2018 is arbitrary and violative of Article 14 of the Constitution of India. Even though the notification was issued on 09.04.2018, the respondent Commission has arbitrarily fixed the cut off date for qualification in respect of age as 01.07.2018 and there is no rationale behind it.

25. It has been consistently held by the Hon'ble Supreme Court that fixing a cut off date for determining the maximum or minimum age is the discretion of the employer and judicial review is not permissible unless the fixation of cut off date is so capricious or whimsical. As rightly pointed out by the learned senior counsel for the High Court, cut off date cannot be fixed in such a manner to avoid hardship to some persons. It is natural when a cut off date is fixed, some may get affected and that cannot make the cut off date per se arbitrary. The learned standing counsel, the respondent Commission has come out with a justifiable explanation, that the cut off date has been fixed as per the Tamil Nadu Government Servants' (Condition of Service) Act 2016 which prescribe the cut off date as 1st July of the year in which the vacancy is notified. Section 20(4)(iii) of the Act reads as follows:-

"20. Qualifications:-

(4) No person shall be eligible for appointment to any service by direct recruitment unless he satisfies the Commission in cases where the appointment has to be made in consultation with it or the appointing authority, in other cases;

... ..

(iii) that such a person satisfies the age prescribed in the special rules on the first July of the year in which the vacancy is notified; and."

Hence, it is clear that the cut off date has been fixed as per the Act which is applicable to the present recruitment process.

26. The Hon'ble Supreme Court, in Government of Andhra Pradesh v. N.Subbarayaudu, (2008) 14 SCC 702, has held that fixation of cut off date is very well within the domain of the executive authority and the courts should not ordinarily interfere with the fixation of the cut off date. The relevant paragraphs in the judgement read as follows:-

5. In a catena of decisions of this Court it has been held that the cut-off date is fixed by the executive authority keeping in view the economic conditions, financial constraints and many other administrative and other attending circumstances.

This Court is also of the view that fixing cut-off dates is within the domain of the executive authority and 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. (See State of Punjab v. Amar Nath Goyal.

6. No doubt in D.S. Nakara v. Union of India [(1983) 1 SCC 305 : 1983 SCC (L&S) 145] this Court had struck down the cut-off date in connection with the demand of pension. However, in subsequent decisions this Court has considerably watered down the rigid view taken in Nakara case [(1983) 1 SCC 305 : 1983 SCC (L&S) 145] as observed in para 29 of the decision of this Court in State of Punjab v. Amar Nath Goyal.

7. There may be various considerations in the mind of the executive authorities due to which a particular cut-off date has been fixed. These considerations can be financial, administrative or other considerations. The court must exercise judicial restraint and must ordinarily leave it to the executive authorities to fix the cut-off date. The Government must be left with some leeway and free play at the joints in this connection."

27. Earlier when the similar notification issued for appointment of Civil Judges was challenged, a Division Bench of this Court in R.Krishnamurthy v. The Principal Secretary to Government, Home Department (W.P.No.1932 of 2012 etcetera batch dated 21.02.2012), in para 5 has held as follows:-

"21. As far as fixing of maximum or minimum age limit is concerned, it is within the domain of the authority concerned and this argument has been advanced based on the Bar Council of India Rules. Admittedly, these Rules relate only to admission to Law Degree Courses and there is no reference at all in the said Rules with regard to age for recruitment to Judicial Service. If this argument of the learned counsel for the petitioners has to be accepted, then all the candidates, who have been permitted to join the Law Degree Course must be allowed to writ the examination. As far as admission to Law Degree Course is concerned, it is the first stage and as far as recruitment is concerned, only will get the eligibility subsequent to the completion of the said course alone and complying with the other conditions. Some may complete the course within the prescribed period, while some others may take a number of years to finish the same for

so many reasons. But, that does not mean that whenever they complete the course, they should be made eligible to appear for the examination concerned. Further, non only in Judicial Service, but also in other services, for appointment to any post, minimum and maximum age limit is prescribed. When that is the position, Judiciary alone cannot be an exception to this. As far as Judiciary is concerned, a Judge is appointed to decide the issues involved in so many cases coming before him. Under such circumstances, taking note of this, when this is the normal procedure adopted and also in view of the judgement relied on by the learned Senior Counsel for the High Court, which has been referred to above, fixing the maximum age limit or minimum age limit cannot be said to be an illegal or arbitrary one. Consequently, the argument of the learned counsel for the petitioners, in this regard cannot be allowed to stand."

Therefore, merely because the cut off date fixed by the respondent Commission caused inconvenience or hardship to few of the candidates, fixation of the cut off date cannot be held as arbitrary, irrational or capricious. Therefore, we are of the considered view that fixation of the cut off date as 01.07.2018 for both categories is not arbitrary and it in no way violates Article 14 of the Constitution of India. Therefore, the arguments of the learned counsel for the respective petitioners in this regard cannot be countenanced both in law and on facts.

28. In so far as the next contention of some of the petitioners regarding the maximum age limit fixed at 35 years for general category and 40 years for the other categories of candidate is concerned, as already referred to above, the maximum age limit has also been fixed following the directions issued by the Hon'ble Supreme Court in All India Judges' Association case cited supra and only in the implementation of the directions issued by the Hon'ble Supreme Court Rules have been amended appropriately fixing the age limit. Apart from that, it is also settled law that fixing the minimum or maximum age limit is very well within the domain of the employer concerned and merely because the petitioners have now become over aged, they cannot contend that fixation of age limit by the respondent commission is arbitrary and unreasonable. Therefore, the arguments of the learned counsel for the respective petitioners in this regard also cannot be countenanced as being devoid of merits and substance.

29. In some of the writ petitions, it was contented that Bar Council of India framed rules fixing upper age limit for admission to the Law Courses, but the authorities in the instant case have fixed the age limit for fresh law graduates as 27 years without reference to the rules framed by the Bar Council of India. The above issue is no more res integra as a Division bench of this Court in R.Krishnamurthy v. The Principal Secretary to Government, Home Department [cited supra] has held that the rules framed by the Bar Council of India relate only to admission to Law Degree Courses and it has no relevance with regard to the age for recruitment to Judicial Service.

30. Merely because the Bar Council of India fixed age limits for admission to the law courses, the same yardstick cannot be applied while fixing the age limit for fresh law graduates to take part in the examination conducted for recruitment to the post of civil judges. The very purpose of permitting the fresh law graduates to take part in the examination for recruitment to the post of Civil Judges is to attract the best young graduates to judicial service and to bring brilliant young men who will set a higher tone and level to the subordinate judiciary. In the said circumstances, Shetty Commission recommended to include the outstanding law graduates with aptitude for service. If the age limit is fixed with reference to the rules framed by the Bar Council of India for admission to the law courses is to be adopted then, the very object of inducting the fresh law and young law graduates into the judicial service will be defeated. The rules framed by the Bar Council of India in this regard have no nexus with the recruitment to the post of judicial officers.

31. W.P.No.9764 of 2018 has been filed in the form of a Public Interest Litigation by a student of III years Law Course who is going to take up his final year examinations challenging the cut off date fixed by the respondent. It is contended by the petitioner that many students like him, who are going to take up their final year examinations, are being affected by the cut off date fixed in the present notification and they lost their chance to appear for the recruitment examination for the post of Civil Judges.

32. In our consider view, the above said contention is totally untenable. The minimum qualification for appointment to the post of Civil Judges fixed in the rules is that the candidate must possess a decree in law. The petitioner who has not even completed his law course is not eligible to apply for the recruitment examination for the post of Civil Judges and therefore, the writ petition filed by the petitioner is not at all maintainable.

33. The next submission of the learned counsel for some of the petitioners is that even though there were considerable vacancies existed in the last four years, there was no recruitment to the post of Civil Judges and in view of the delay caused by the respondents in not inviting the application to the post of Civil Judges every year, the petitioners have now become over aged. Therefore, the learned counsel submitted that on the above ground, the age limit in the case of the petitioners may be relaxed and they may be permitted to apply for the post. In support of his contention, the learned counsel relied on the Judgement of a Division Bench of High Court of Jharkhand in *Bhola Natha Rajak v. The State of Jharkhand* [W.P.(S) No.7526 of 2013 dated 16.01.2014].

34. Countering the above contention, the learned Senior Counsel for the High Court submitted that the respondent explained the reason for the delay in not inviting the application to fill up the post of Civil Judges for the last four years. In paragraphs 10 to 14 of the counter affidavit the respondent has stated that there were various deliberations between the High Court and the State Government regarding amendment to rules to provide for reservation for differently abled persons and ultimately the rules have been amended in the year 2017. Thereafter the impugned notification has been issued.

35. In this regard, the learned senior counsel for the High Court relied on a judgement of the Delhi High Court in W.P.No. (C) No.1701 of 2014 dated 14.03.2014 [*Gaurav Mehta v. High Court of Delhi*] wherein the Delhi High Court while taking note of the Division Bench Judgement of High Court of Jharkhand, ultimately held that the petitioner had no right to compel the respondent Commission to hold recruitment examinations especially when there are justifiable and good reasons available for not filling up the vacancies. In para 15 of the judgement, the Delhi High Court has held as follows:-

"15. It is accepted that last Delhi Judicial Services Examination were held in the year 2011 and the written examination were held on 9/10th June, 2012. As per the Petitioners, the examinations were not held in 2012-2013 for want of Court rooms and infrastructure. This factual position is not disputed. The Petitioners have no right to compel the Respondents to hold the examination, when for justifiable and good reasons they did not want to fill up the vacancies. In the present case, as per the Petitioners themselves, the Respondents for want of necessary infrastructure and Court rooms, did not hold examinations in year 2012-2013. Now, Notification has been issued in 2014. Reliance placed on the decision of the High Court of Jharkhand in *Bhola*

Nath Rajak (supra) is misconceived. In the said case, it was noticed that the examination were being held after five years. In the special facts and circumstances and after referring to earlier judgement in Sanjiv Kumar Sahay & Ors. v. State of Jharkhand & Ors., 2008 (2) JLJR 543 in which it was noticed that selections were being held after seven years, suitable directions were issued. In the present case, examinations have been held from time to time and the last examination was held pursuant Notification dated 20.09.2011. The Petitioners herein, have accepted that they had appeared in 2011 examination but unfortunately did not succeed. Now, Notification dated 18.02.2014 has been issued.

36. In the instant case, the respondents fully justified in not conducting the recruitment examination for the last 4 years even though there were vacancies available in the post of Civil Judges. When the respondents have justifiable reasons, in the absence of any allegation of mala fide for not conducting the recruitment examination, the petitioners have no vested right to compel the respondents to conduct the recruitment examination. The petitioners are not entitled for any age relaxation on the ground of delay in conducting the recruitment examination. The judgement of the High Court of Jharkhand is distinguishable on the facts of the present case. Apart from that as already held, the impugned notification has been issued only in compliance with the rules and without challenging the validity of the rules, the petitioners cannot maintain these writ petitions to challenge the impugned notification issued by the respondent Commission. Therefore, on this score also, the writ petitions which do not challenge the rules, deserve to be dismissed.

37. The petitioners in W.P.Nos.11149 and 11250 of 2018 claimed to be differently abled persons. According to them, the G.O.Ms.No. 704 dated 15.04.1964 issued by the State Government provides ten years of age relaxation for differently abled person and The Rights of Persons with Disabilities Act, 2016 also provides for relaxation in the matter of upper age limit. But, in the present notification no such age relaxation has been provided for the differently abled persons. In absence of age relaxation being provided in the Notification, the said plea of the petitioners merit no consideration.

38. Insofar as the petitioner in W.P.No.11149 of 2018 is concerned, it was submitted by the respondent that the petitioner was provisionally selected to the post of Civil Judge in the last recruitment process held in the year 2014. But, subsequently, involvement of the petitioner in many criminal cases came to the light and the respondent commission referred the matter to the selection committee of the High Court and the

committee had rejected the case of the petitioner on the ground of suppression on his part of the pendency of criminal proceedings. Now, the petitioner filed the present writ petition without disclosing the rejection of his earlier selection. The petitioner having approached this court with unclean hands cannot expect this court to grant him any relief. Therefore, the said writ petition deserves to be dismissed and hence dismissed.

39. Apart from that it is also submitted that after the Rights of Persons with Disabilities Act, 2016 came into force, the rule 10 of the Rules was suitably amended providing reservation to various categories of differently abled persons. As per rule 5(9)(2) of the Rules, the provisions contained in clause (ii) of sub-section (8) of Section 20, Section 63 and Section 64 of Tamil Nadu Government Servants' (Condition of Service) Act, 2016 (T.N. Act 14 of 2016) shall not apply to the present recruitment. Section 64 of the Act provides for age concession up to ten years for differently abled persons over and above the age limit prescribed for appointment to the post of Civil Judges. Since the provisions of Section 64 of the Act is not made applicable to the recruitment to the post of Civil Judges pursuant to the provision contained under Rule 5(9) (2) of the Rules, the petitioners cannot claim any age relaxation on the ground that they are differently abled persons.

40. For the foregoing discussions we do not find any merit in these writ petitions and the same are liable to be dismissed.

41. In the result, the Writ Petitions are dismissed. No costs. Consequently, connected WMPs are closed.

-s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To:

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3. The Secretary to Government
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4.The Secretary

Bar Council of India 21 Rose Avenue
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5.The Chairman

Bar Council of Tamil Nadu and Pondicherry
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6. The Secretary to Government

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7. The Secretary

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8. The Additional Chief Secretary

Government of Tamil Nadu
Home Prohibition and Excise Department
Secretariat Chennai 9.

9. The Principal Secretary

Government of Tamil Nadu
Welfare of Differently Abled Persons Department
Secretariat Fort St. George Chennai 9

10. The Secretary to Government

Government of Tamil Nadu
Home (Court) Department
Chennai 9.

11. The Secretary to Government

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Tamil Nadu Public Service Commission
Chennai.

13. The Registrar (Recruitment)

High Court, Madras

14. The Secretary
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+1 CC to Mr.G. Sakthi Rao, Advocate sr 33528.
+1 CC to Mr.G. Mohanakrishnan, Advocate sr 33393.
+4 CCS to Mrs.A.L.Gandhimathi, Advocate sr 33446.

Writ Petition Nos.
11770, 9775, 10757, 11017,
11018, 11019, 11020, 11149,
11250 & 11427 of 2018
and
Writ Petition (MD) Nos.8640,
8657, 9352, 9764, 10343 & 10529
of 2018

SR(CO)
SP(21/05/2018)