

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5619 of 2020

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Ram Milan Thakur, aged about 44 years, Male, S/o Kapildev Thakur, R/o Village - Bhup Bhairo, P.S.- Sitamarhi, District- Sitamarhi.

... .. Petitioner

Versus

1. The State of the Bihar through the Principal Secretary, Department of Personnel and Administrative Reforms, Government of Bihar, New Secretariat, Patna.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The Chairman Bihar Public Service Commission, Patna.
4. The Joint Secretary cum Examination Controller, Bihar Public Service Commission, Patna.
5. Patna High Court Through Registrar General.

... .. Respondents

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with
Civil Writ Jurisdiction Case No. 5638 of 2020

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1. Vijaya Jaiswal, female, aged about 42 years, wife of Sanjay Kumar, resident of Mohalla- Piper Pati Road, P.O.- Buxar, P.S.- Buxar, District- Buxar, Bihar, Pin Code- 802102.
2. Kumud Pandey, female, aged about 42 years, daughter of Ghanshyam Pandey, Maya Pandey Resident of House No.135 H, Near V Mart, Vishnupuram, Basharatpur, P.O.- Basharatpur, P.S.- Shahpur, District- Gorakhpur, Uttar Pradesh, Pin Code- 273004.
3. Sujit Kumar Srivastava, male, aged about 37 years, son of Late Bishwanath Prasad, Resident of Village- Manikpur, P.O.- Gopalganj, P.S.- Gopalganj, District- Gopalganj, Bihar, Pin Code- 841428.

... .. Petitioners

Versus

1. The State of Bihar.
2. The Bihar Public Service Commission, 15 Jawaharlal Nehru Marg (Bailey Road), Patna 800001.
3. The Chairman, the Bihar Public Service Commission, 15 Jawaharlal Nehru Marg (Bailey Road), Patna 800001.
4. The Secretary, the Bihar Public Service Commission, 15, Jawaharlal Nehru Marg (Bailey Road), Patna 800001.
5. The Examination Controller, the Bihar Public Service Commission, 15, Jawaharlal Nehru Marg (Bailey Road), Patna 800001.



6. Patna High Court Through Registrar General.

... .. Respondents

Appearance :-

(In Civil Writ Jurisdiction Case No. 5619 of 2020)

For the Petitioner/s	:	Mr. Ravindra Kumar, Advocate
For the High Court	:	Mr. Bindhyachal Singh, Advocate
For the B.P.S.C.	:	Mr. Sanjay Pandey, Advocate

(In Civil Writ Jurisdiction Case No. 5638 of 2020)

For the Petitioners	:	Mr. Arvind Kumar Verma, Advocate
For the High Court	:	Mr. Piyush Lall, Advocate
For the B.P.S.C.	:	Mr. Sanjay Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

Date : 04-12-2020

In both the cases, identical issue has been raised hence, both these writ petitions are being disposed of by common judgment. For convenience, the facts of C.W.J.C. No.5619 of 2020 are being taken into consideration and in need this Court would also take the facts from C.W.J.C. No. 5638 of 2020.

2. In C.W.J.C. No. 5619 of 2020 the petitioner has made a prayer for quashing the part of Clause-3 of Advertisement no.04 of 2020 issued by the Bihar Public Service Commission, Patna, whereby and whereunder maximum age for general category candidates has been fixed as 35 years as on



01.08.2018 and for reserved category candidate maximum age has been fixed as 40 years as on 01.08.2018. Further prayer has been made for issuance of writ of *mandamus* directing the respondents to fix the cut-off date of maximum age as 01.08.2014 in place of 01.08.2018 for appearing in the Judicial Service Examination in pursuance of Advertisement No. 04 of 2020.

3. In C.W.J.C. No. 5638 of 2020, the petitioners have made a prayer for grant atleast one opportunity to those aspirants who attained the prescribed maximum age in between 01.08.2013 to 01.08.2018 and declare them eligible to apply against Advertisement no. 04 of 2020.

So, the prayer made in both the cases are identical and similar.

4. The petitioner of C.W.J.C. No. 5619 of 2020 is aged about 44 years whereas, the petitioner nos.1, 2 and 3 of C.W.J.C. No. 5638 of 2020 are aged about 42, 42 and 37 years respectively. Admittedly, all the petitioners are over age and as such, they approached this Court with a prayer to relax the cut-off date of maximum age from 01.08.2018 to 01.08.2014 for appearing in the Judicial Service Examination.

5. The facts emerges from the records of the case are



that the Bihar Public Service Commission vide advertisement No.04 of 2020 announced for conducting 31st Bihar Judicial Services Competitive Examination for appointment of Civil Judges (Lower Division). Total posts have been shown as 221. As per the advertisement, the cut-off date of minimum age has been fixed as 22 years as on 01.08.2019 and cut-off date of maximum age for general category candidates has been fixed as 35 years as on 01.08.2018 and for reserved category candidates cut-off date of maximum age has been fixed as 40 years as on 01.08.2018.

6. As per the petitioner of C.W.J.C. No. 5619 of 2020, namely, Ram Milan Thakur, he has filed a representation before the Deputy Chief Minister, Government of Bihar, Patna, and raised objection that in 28th Bihar Judicial Service Competitive Examination, 2012 the maximum age for general category candidates for appearing in the said examination was fixed as 35 years as on 01.08.2011 and 40 years for reserved category candidates. It has also been stated that in 29th Bihar Judicial Service Competitive Examination, 2016, the maximum age for general category candidates for appearing in the said examination was fixed as 35 years as on 01.08.2012 and for reserved category candidates maximum age was fixed as 40



years as on 01.08.2012. Similarly, in 30th Bihar Judicial Service Competitive Examination, 2018 the maximum age for general category candidates was fixed as 35 years as on 01.08.2013 and for reserved category candidates maximum age was fixed as 40 years as on 01.08.2013. So, in 31st Bihar Judicial Service Competitive Examination, 2020 the maximum age for general category candidates for appearing in the examination should be fixed as 35 years having cut-off date on 01.08.2014 and 40 years for reserved category candidates. In support of his contention, he has attached the photocopies of the advertisements.

7. It has further been submitted that he belongs to reserved category candidate and his date of birth is 09.06.1976 and on 01.08.2014 he completed the age of 38 years 2 months and 22 days, which is below the maximum age fixed for the reserved category candidates whereas, on 01.08.2018 his age will be 42 years 2 months and 22 days and becomes ineligible. It has further been submitted that the petitioner filed a representation before the Controller of Examination, Bihar Public Service Commission, Patna, and the Chairman, Bihar Public Service Commission, Patna, on 13.03.2020 as well as before the Principal Secretary, General Administration Department, Government of Bihar, on 20.03.2020 for redressal



of his grievance.

8. The Government of Bihar has filed its affidavit, from where it appears that the Deputy Secretary of General Administration Department, Government of Bihar vide letter dated 9398 dated 15.07.2019 (Annexure-B to the counter affidavit) sent a letter to the High Court and given the details in what manner the cut-off date has been fixed with respect to minimum and maximum age in connection with different years of examination and has shown the example of 29th Judicial Service Examination, from where it appears that for 2011-12, 2012-13 and 2013-14 only one cut-off date was fixed i.e. 01.08.2012; in 30th Judicial Service Examination for the year 2014-15, 2015-16 and 2016-17, only one cut-off date was fixed i.e. 01.08.2013 and in the present 31st Judicial Service Examination for the year 2018-19, the cut-off date has been fixed as 01.08.2018, so it should be reconsidered and be fixed the cut-off date as 01.08.2017 instead of 01.08.2018.

9. From the counter affidavit of the High Court it appears that the said letter was considered by the Selection and Appointment Committee of the High Court and whereafter it has been affirmed by the Standing Committee of the High Court. It will be relevant to quote paragraph nos. 7 to 17 of the



counter affidavit filed by the High Court, which reads as under:-

- “7. That by letter No.3907 dated 13.1.2019, the Court requested the General Administration Department, Government of Bihar, Patna, to initiate and conduct recruitment process against 182 vacancies (clear and anticipated) as calculated in the cadre of Civil Judge (Lower Division) upto the year 2018-19 as on 31.3.2019. With reference to the said letter No. 3907 dated 13.01.2019 of the Court, the General Administration Department, Bihar, vide letter No.1983 dated 13.2.2019 requested certain information from the Court including year wise vacancies and fixing cut off date for determination of minimum and maximum age.
8. That in view of the above information sought for from the Court by the General Administration Department, Bihar the office placed a detailed note before the Hon’ble Selection and Appointment Committee also stating therein that all 182 vacancies (clear and anticipated) are of the year 2018-19 because there were no clear vacancies for the year 2017-18. Thereupon, the Hon’ble Selection & Appointment Committee in its meeting held on 28.02.2019 vide Agenda Item No.2 considered the above letter dated 12.2.2019 of the General Administration Department, Bihar and was pleased to resolve as follows:- “The Committee has considered the letter of the General Administration Department and the note of the office and finds that there are



182 vacancies (clear + anticipated) for the year 2018-19.

The Committee resolves to fix 01.08.2018 as cut-off date for calculation of maximum as well as minimum age in terms of Rule 6(a) of the Bihar Civil Service (Judicial Branch) (Recruitment) Rules, 1955 and it further resolves to name the recruitment process for filling up of 182 vacancies as 31st Bihar Judicial Service Competitive Examination”.

Thereafter, the Hon’ble standing Committee in its meeting held on 12.3.2019 considered the above minutes dated 28.2.2019 of the Hon’ble Selection and Appointment Committee and was pleased to resolve as follows:- “The proposal of the Committee dated 28.2.2019 is approved”.

9. *That accordingly the above decisions of the Court that (a) 01.08.2018 will be the cut off date for calculation of maximum as well as minimum age in terms of Rule 6(a) of the Bihar Civil Service (Judicial Branch) (Recruitment) Rules, 1955 (b) 182 vacancies (clear and anticipated) calculated in the cadre of Civil Judge (Junior Division) is for the year 2018-19 and (c) the name of the recruitment process to fill up these vacancies would be the 31st Bihar Judicial Services Competitive Examination was communicated to the General Administration Department, Bihar vide letter no. 25850 dated 26.03.2019 of the Court. Subsequently, the Court, in continuation of its above two letters*



dated 13.1.2019 and 26.3.2019 vide letter No.43331 dated 15.5.2019 informed the General Administration Department, Bihar vacancies in the cadre of Civil Judge (Junior Division) for the year 2018-19 as on 31.3.2019 have been recalculated and on recalculation it was found that there were altogether 221 vacancies (clear and anticipated) in place of 182 vacancies. It is submitted that these 221 vacancies for the year 2018-19 relate to financial year 2018-19 which is evident from the above notes put in the concerned file of the Court leading to issuance of above letter Nos. 25850 dated 26.3.2019 and 43331 dated 15.5.2019 of the Court to the said Department.

- 10. That thereafter the General Administration Department, Bihar, vide letter No. 9398 dated 15.07.2019, referring to the cut off dates for determination of maximum and minimum ages as fixed for the 29th and 30th Bihar Judicial Services Competitive Examination, requested to consider fixing 1.8.2017 instead of 1.8.2018 as the cut off date for determination of maximum age for the 31st Bihar Judicial Service Competitive Examination with reference to the third proviso to Rule 4 of the 1955 Rules.*
- 11. That the above said letter dated 15.7.2019 with relevant facts and details were placed before the Hon'ble Selection and Appointment Committee by the office for its consideration and decisions. The Hon'ble Selection and Appointment*



Committee in its meeting held on 06.08.2019 vide Agenda item no.2 was pleased to resolve as follows:- “The Committee has considered the letter dated 15.07.2019 of the Deputy Secretary, General Administration Department, Government of Bihar and is of the view that cut-off dates are fixed under Rule 6(a) of the Bihar Civil Services (Judicial Branch) (Recruitment) Rules, 1955 which provides that the age of the candidates should be under 35 years and over 22 years on the 1st day of August in the preceding year in which the examination is held. Further, there could not be any applicability of proviso to Rule 4 of the said Rules in the present circumstances as examinations are being conducted regularly and no special case for relaxation in the age limit is made out.

Hence, the committee resolves to reject the request of the Govt. made in the aforesaid letter”.

The Hon’ble Standing Committee in its meeting held on 13.08.2019 vide Agenda No.15 considered the minutes dated 6.8.2019 of the Hon’ble Selection and Appointment Committee in the matter relating to letter dated 15.7.2019 of the General Administration Department, Bihar for fixing 1.8.2017 as the cut off date for calculation of maximum age for 31st Bihar Judicial Service Competitive Examination and was pleased to resolve as follows:- “The Committee resolves to accept the minutes of the Selection and Appointment Committee in so far



as the fixation of cut-off date is concerned as the same is in accordance with Rule 6(a) of the Bihar Civil Services (Judicial Branch) (Recruitment) Rules, 1955”.

Accordingly, the above decision of the Court not to fix 1.8.2017 instead of 1.8.2018 as the cut off date for determining the maximum age was communicated to the General Administration Department, Bihar, vide letter no. 67528 dated 17.8.2019 of the Court.

12. *That under letter No.2572 dated 8.1.2020 the Commission forwarded to the General Administration Department, Bihar, a draft of the Advertisement of the 31st Bihar Judicial Service Competitive Examination for its approval. In this letter the Commission referred to the above letter No. 67528 dated 17.8.2019 of the Court fixing 1.8.2018 as the cut-off date for determination the maximum age and stated that it was not clear as to what would be the cut off date for fixing the minimum age and thus referring to Rule 6(a) of the 1955 Rules and to the fact that the said 31st Bihar Judicial Services Competitive Examination would probably be held in the year 2020 the Commission further stated that it has mentioned these cut off dates as 1.8.2018 and 1.8.2019 as the cut off dates for determining the maximum and minimum age in the draft advertisement and requested for its approval. The said letter dated 8.1.2020 and the draft advertisement of the Commission was sent to the Court under letter No.1317 dated*



24.1.2020 by the General Administration Department, Bihar requesting concurrence thereon. The said letter dated 24.1.2020 was followed by reminder letter no.1520 dated 28.1.2020 of the said Department to the Court.

13. That the above two letters dated 24.1.2020 and 28.1.2020 of the General Administration Department, Bihar seeking clarification/ concurrence of the Court in relation to the Draft Advertisement of the 31st Bihar Judicial Services Competitive Examination as proposed under the above letter dated 08.01.2020 of the Commission with relevant facts and figures were placed before the Hon'ble Selection and Appointment Committee for its consideration. The Hon'ble Selection and Appointment Committee in its meeting held on 20.02.2020 vide Agenda Item no.4 was pleased to resolve as follows:- "The Committee has considered letters dated 24.01.2020 and 28.1.2020 received from the Under Secretary, General Administration Department, Govt. of Bihar as also letter dated 08.01.2020 of the Secretary, Bihar Public Service Commission as well as the notes of the Registry. The committee, on consideration of the matter, resolves as under:-

- 1. For the present exam there shall be no reservation for Economically Weaker Sections as the matter is under consideration before the Full Court.*
- 2. The cut-off date as 01.08.2019 for calculating minimum age, as proposed by*



the BPSC may be concurred as the examination is going to be held in the year 2020.

3. The clauses regarding availing maximum number of attempts to be availed by the Unreserved category candidate as well as relaxation of minimum qualifying marks in the written examination as was mentioned the advertisement of 30th Bihar Judicial Service Competitive Examination at the end of para 4(ka) may also be incorporated in the advertisement of 31st Bihar Judicial Service Competitive Examination. The Committee resolves to refer the matter to the Standing Committee for approval and concurrence”.

- 14. That accordingly the above matter was placed before the Hon’ble Standing Committee which in its meeting held on 25.2.2010 vide Agenda Item no.1 was pleased to resolve as follows:-
“Having considered the matter, the Committee resolves to approve the minutes dated 20.02.2020 of the Hon’ble Selection and Appointment Committee against agenda item no.4 with modification that the clause related to the provision of reservation for economically weaker section will be the part of the advertisement with proviso that it would be subject to the decision of the Full Court as the matter is already pending before it. At the same*



time, in the draft advertisement, in 2nd line of paragraph 4 (ga) the words, 'सामान्य प्रशासन विभाग, बिहार के अधिसूचना संख्या-16645, दिनांक 03.12.2014 के आलोक में' would stand deleted". That said decision of the Court in terms of the aforesaid resolutions was accordingly communicated to the General Administration Department, Bihar vide letter No.14392 dated 29.02.2020 of the Court.

15. *That thereafter the Commission issued Advertisement No.04/2020 dated 9.3.2020 inviting application from eligible candidates for direct recruitment against 221 posts of Civil Judge (Junior Division) and as per clause 3 thereof the candidate should not be over 22 years of age as on 1.8.2019 and should be under 35 years of age as on 1.8.2018 and for candidate belonging to reserved category including women and orthopedically disabled category it should be under 40 years on 1.8.2018."*

10. When this Court has put a question that as per Rule-6(a) of the Recruitment Rule, 1955 there would be single cut-off date of minimum and maximum age as the Rule prescribes that cut-off date would be fixed preceding the year of examination and the examination is going to be conducted in the year 2020, so the cut-off date should not be as 01.08.2018, in turn, learned counsel for the High Court replied that the



recruitment process has started in the year 2019 but, materialized in the year 2020, in such view of the matter, the cut-off date for maximum age has been fixed as 01.08.2018, which also appears from the letter written by the Registrar General of this Court dated 26.03.2019 addressed to the Principal Secretary, General Administration Department, Government of Bihar, Patna. So, in this manner, already one year's relaxation has been granted.

11. It will be relevant to quote Rule-6(a) of the Bihar Judicial Services Recruitment Rules, 1955, which reads as under:-

*“6. A candidate may be of either sex and must -
(a) Be his age should be under 35 years and over 22 years on the 1st day of August in the preceding year in which the examination is held.*

Provided that a candidate belonging to a reserved category including women and orthopedically disabled category must be under 40 years and over 22 years of age on the said date.

Provided further that, no candidate who does not belong to reserved category including women and orthopedically disabled category, shall be allowed to take more than five chances at the examination.”

12. From perusal of Rule 6(a) of the aforesaid Rule,



1955 it appears that the cut-off date for minimum and maximum age will be 1st day of August of the preceding year in which the examination is held. Further, from the narration of facts brought by the High Court through counter affidavit and also the letter of the Registrar General of this Court addressed to the Government show that one year relaxation has been granted for those in the context of maximum age limit.

13. This issue is no longer *res integra* as in C.W.J.C. No.8018 of 2020 (Alok Anand vs. The State of Bihar and Ors.) and C.W.J.C. No. 6188 of 2020 (Prateek Srivastava vs. The State of Bihar and Ors.) challenge was made to Rule-6(a) of the Bihar Judicial Services Recruitment Rules, 1955 regarding fixation of minimum age limit and this Court vide judgment and order dated 06.11.2020 has refused to interfere with the matter.

14. As this Court has already considered the issue of fixation of cut-off date for minimum age limit with respect to present examination and from the averments made in the counter affidavit of the High Court and also the relevant documents shows that at different levels the High Court has considered the matter regarding fixation of maximum age limit and ultimately came to the conclusion that cut-off date has rightly



been fixed. Furthermore, the fixation of the condition of service and entry in the service is within the domain of the Legislature or the Executives or the employer. In the present case, suggestion of the Government was considered at different level of this Court and after full deliberation, this Court has arrived to a conclusion that the request of the Government for fixing the cut-off date as 01.08.2017 cannot be acceded. Even presuming that the request of the Government would have been accepted then also the petitioners of both the cases would not have been benefited.

15. Further, in the case of *Dr. Ami Lal Bhat vs. State of Rajasthan and Ors.* reported in (1997) 6 SCC 614, the issue with regard to cut-off date in upper age limit came for consideration before the Hon'ble Supreme Court. In that case, it has been argued that the cut-off date fixed by different Recruitment Rules is arbitrary and it should be declared to be bad in law. The said contention was rejected by holding that the cut-off date for determining the maximum or minimum age prescribed for the post is not per se arbitrary. Basically, the fixing of a cut-off date for determining the maximum or minimum age is in the discretion of the Rule-making Authority or the employer as the case may be. It has also been held that



the cut-off date cannot be fixed with a mathematical precision and in such a manner as would avoid hardship in all conceivable cases. As soon as a cut off date is fixed, there will be some persons who fall on the right side of the cut off date and some persons who will fall on the wrong side of the cut off date, that cannot make the cut off date, per se, arbitrary unless the cut off date is so wide off the mark as to make it wholly unreasonable. Hardship of candidate will not make statutory provision illegal, capricious and arbitrary.

16. It will be relevant to quote paragraph nos. 4, 5, 6 and 7 of the said judgment, which read as under:-

“4. Is such a cut-off date fixed by the Rules applicable to the relevant service, arbitrary? It has been urged before us by the petitioners and/or appellants that the cut-off date of 1st of January following the last date fixed for receipt of applications is arbitrary. The cut off date should only be fixed with reference to the last date of making the application in question. It is submitted before us that the date of 1st of January has no nexus with the application in question and, therefore, must be struck down.

5. This contention, in our view, is not sustainable. In the first place the fixing of a cut-off date for determining the maximum or minimum age prescribed for a post is not, per se, arbitrary.



Basically, the fixing of a cut off date for determining the maximum or minimum age required for a post, is in the discretion of the rule-making authority or the employer as the case may be. One must accept that such a cut off date cannot be fixed with any mathematical precision and in such a manner as would avoid hardship in all conceivable cases. As soon as a cut off date is fixed there will be some persons who fall on the right side of the cut off date and some persons who will fall on the wrong side of the cut off date. That cannot make the cut off date, per se, arbitrary unless the cut off date is so wide off the mark as to make it wholly unreasonable. This view was expressed by this court in Union of India v. Parameswaran Match Works¹ and has been reiterated in subsequent cases. In the case of A.P. Public Service Commission v. B. Sharat Chandra² the relevant service rule stipulated that the candidate should not have completed the age of 26 years on the 1st day of July of the year in which the selection is made. Such a cut off date was challenged. This Court considered the various steps required in the process of selection and said,

"when such are the different steps in the process of selection the minimum or maximum age of suitability of a candidate for appointment cannot be allowed to depend upon any fluctuating or uncertain date. If the final stage of



selection is delayed and more often it happens for various reasons, the candidates who are eligible on the date of application may find themselves eliminated at the final stage for no fault of theirs. The date to attain the minimum or maximum age must, therefore, be specific and determinate as on a particular date for candidates to apply and for the recruiting agency to scrutinise the applications".

This Court, therefore, held that in order to avoid uncertainty in respect of minimum or maximum age of a candidate, which may arise if such an age is linked to the process of selection which may take an uncertain time, it is desirable that such a cut off date should be with reference to a fixed date. Therefore, fixing an independent cut off date, far from being arbitrary, makes for certainty in determining the maximum age.

- 6. In the case of Union of India v. Sudhir Kumar Jaiswal³ the date for determining the age of eligibility was fixed at 1st of August of the year in which the examination was to be held. At the time when this cut off date was fixed, there used to be only one examination for recruitment. Later on, a preliminary examination was also introduced. Yet the cut off date was not modified. The Tribunal held that after the introduction of the preliminary examination the cut off date had become arbitrary. Negating this view of the Tribunal and allowing the*



appeal, this Court cited with approval the decision of this Court in Parmeshwaran Match Works case¹ and said that fixing of the cut off date can be considered as arbitrary only if it can be looked upon as so capricious or whimsical as to invite judicial interference. Unless the date is grossly unreasonable, the court would be reluctant to strike down such a cut-off date.

7. *In the present case, the cut-off date has been fixed by the State of Rajasthan under its Rules relating to various services with reference to the 1st of January following the year in which the applications are invited. All service Rules are uniform on this point. Looking to the various dates on which different departments and different heads of administration may issue their advertisements for recruitment, a uniform cut-off date has been fixed in respect of all such advertisements as 1st January of the year following. This is to make for certainty. Such a uniform date prescribed under all service Rules and Regulations makes it easier for the prospective candidates to understand their eligibility for applying for the post in question. Such a date is not so wide off the mark as to be construed as grossly unreasonable or arbitrary. The time-gap between the advertisement and the cut-off date is less than a year. It takes into account the fact that after the advertisement, time has to be allowed for receipt of applications, for their scrutiny, for calling*



*candidates for interview, for preparing a panel of selected candidates and for actual appointment. The cut-off date, therefore, cannot be considered as unreasonable. It was, however, strenuously urged before us that the only acceptable cut-off date is the last date for receipt of applications under a given advertisement. Undoubtedly, this can be a possible cut-off date. But there is no basis for urging that this is the only reasonable cut off date. Even such a date is liable to question in given circumstances. In the first place, making a cut off date dependent on the last date for receiving applications, makes it more subject to vagaries of the department concerned, making it dependent on the date when each department issues an advertisement, and the date which each department concerned fixes as the last date for receiving applications. A person who may fall on the wrong side of such a cut-off date may well contend that the cut-off date is unfair, since the advertisement could have been issued earlier: or in the alternative that the cut-off date could have been fixed later at the point of selection or appointment. Such an argument is always open, irrespective of the cut-off date fixed and the manner in which it is fixed. That is why this Court has said in the case of *Parameshwaran Match Works*¹ and later cases that the cut-off date is valid unless it is so capricious or whimsical as to be wholly unreasonable. To say that the only cut-off date*



can be the last date for receiving applications, appears to be without any basis. In our view the cut-off date which is fixed in the present case with reference to the beginning of the calendar year following the date of application, cannot be considered as capricious or unreasonable. On the contrary, it is less prone to vagaries and is less uncertain.”

17. For the reasons discussed hereinabove, we find that the relief sought by the petitioners do not deserve any consideration from this Court. Accordingly, both these writ petitions are dismissed.

(Shivaji Pandey, J)

(Partha Sarthy, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	05.12.2020
Transmission Date	

