

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 500 of 2020**

Sudha Pandey, D/o. Shri N.K. Pandey, Aged About 36 Years, Presently Posted As Civil Judge Class-II at Junaardeo, District- Chhindwada (Madhya Pradesh), Permanent R/o. Shivaji Ward, Raipur Road, Mungeli, Tahsil And District- Mungeli, Chhattisgarh.

---- **Petitioner**

Versus

1. State Of Chhattisgarh, Through Secretary, Department Of Law And Legislative Affairs, Mantralaya, Post Office- Rakhi, Atal Nagar, District- Raipur, Chhattisgarh.
2. High Court Of Chhattisgarh, Through Registrar General, Chhattisgarh High Court, Bodri, Police Station- Chakarbatha, Bilaspur, District- Bilaspur, Chhattisgarh.

----**Respondents**

For Petitioner	:	Mr. Anish Tiwari, Advocate
For State/Respondent No.1:	:	Mr. Amrito Das, Addl. A.G.
For Respondent No.2	:	Mr. Ashish Shrivastava, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board**

22.01.2020

Heard

1. Challenge in this petition is to the recruitment process of the Advocates for appointment of the District Judge, Entry Level, which is notified by the High Court on 06.01.2020 (Annexure P-1).
2. The challenge is by petitioner, who, as described by cause title of the petitioner shown that she is working as Civil Judge Class-II in the State of Madhya Pradesh. The primary ground is that the advertisement condition, which is published in clause (a) (iv) lays down the condition that the person to be appointed from the pool of advocate should be practicing advocate prior to 7 years from 01.01.2020, is contrary to the Chhattisgarh Higher Judicial Service (Recruitment & Conditions of Services) Rules, 2006, which prescribes 25% of the direct recruitment from the eligible advocate would be made. The reference is further made to Rule 7(i) clause

(c) and would submit Rule only postulates that the qualification to apply under such quota should be at least 7 years experience of an advocate on the first day of January of the year in which applications for appointment are invited. It is contended that the advertisement therefore carves out the demarcation and the petitioner who has already practiced as advocate for 7 years is eligible to apply for the direct recruitment quota of advocate for appointment of District Judges. He further submits consciously for the departmental promotion of the officers, it is confined to the officers of the Chhattisgarh Judicial Services and if such criteria of 7 years of advocate is not made applicable to the other eligible candidate likewise that of the petitioner, it would be discriminatory to Article 16 of the Constitution of India and such irrational classification cannot be carved out. Therefore, the advertisement to the extent requires to be nullified. It is stated the petitioner who was an advocate earlier for 7 years and subsequently joined as Civil Judge can also apply such criteria that she has 7 years of experience as an advocate. So she need not be a continuous practicing advocate.

3. Mr. Ashish Shrivastava, learned counsel for the respondent No.2, would submit that the advertisement which has been made on 06.01.2020 is pursuant to the Rules, 2006. Rule 5(1)(c) is to be read along with Rule 7(i)(c). It is stated that without ambiguity the word "Advocate" has been used, therefore, the interpretation of the Advocate has to be given a literal meaning and the petitioner who is working as a Civil Judge Class-II in the State of Madhya Pradesh in any case cannot come to the criteria of Advocate, therefore, the petition is misconceived and liable to be dismissed.
4. Perused the documents.

5. In the advertisement so made on 06.01.2020 (Annexure P-1) for the purpose to apply for an Advocate at clause (a) (iv), the following qualification was prescribed :

“(a) No person shall be eligible for appointment by direct recruitment unless, he or she -

(iv) has for at least seven years been an advocate as on 01/01/2020. In other words, the applicant must be practicing as on 01.01.2020 as an Advocate and must have so practiced for a period of not less than seven year as on such date.”

The aforesaid interpretation would show that the person who want to apply for District Judge recruitment process should be an advocate prior to 7 years of 01.01.2020 and must be a practicing advocate.

6. Rule 5(1)(c) of the Chhattisgarh Higher Judicial Service (Recruitment & Conditions of Service) Rules, 2006 reads as under :

“5. Method of Recruitment of Appointment :

5.(1)(c)- 25% by direct recruitment from amongst the eligible Advocate on the basis of written and viva-voce test conducted by the High Court as per Schedule-III;

Provided that successful candidates in written examination securing 60% marks in case of General Category and 50% marks in case of Reserved Category, shall be eligible for viva-voce test in the ration of 1:3 in order of merit.”

7. Likewise, the relevant qualification which is prescribed in Rule 7(i) (c) reads as under :

“7. Qualification for direct recruitment under clause (c) of sub-rule 1 of rule 5-

(i) No person shall be eligible for appointment by direct recruitment unless, he or she-

(a) is a citizen of India,

(b) xx....xxx...xxx...

(c) has for atleast seven years been an advocate on the first day of January of the year in which applications for appointment are invited;

Provided further that where a candidate who was eligible in age to apply for appointment in any calendar year in which vacancies were notified as per Rule 6 (A) and if for some reason recruitment proceeding could not be initiated, such candidate shall be eligible in age to appear in the following recruitment proceedings.

8. Both the Rules 5 & 7 when are read together it clearly points out that firstly the person who apply for the quota has to be an advocate. The separate platform has been created for the eligible advocate and the qualification is attached with, he should be a practicing one. If such qualification is diluted then the entire object of the said rule would be defeated. Then in such case, the person who might have practiced for 7 years earlier and have opted for other course or business would come under eligibility and may apply for the recruitment process. The idea of petitioner if is implemented and interpreted in Rule then it would have a catastrophic consequences. The interpretation cannot be on emotion concept. In such case, it would lead to complete deformation and would amount to dilute the concept and quality for which the rules have been meant for. This cannot be ignored that the recruitment process are made for Higher Judicial Service. In a consequence, the experience holds the sway for evaluation. The word "Advocate" has to be given literal meaning without any further interpretation. The Advocate normally denotes to a practicing Advocate, not an Advocate who practiced in the past. Therefore, I do not find any infirmity in the advertisement. Consequently, the

petitioner if is not an Advocate coming within the definition of the rules, it cannot be made open to allow the object to sleep through the crack to defeat.

9. In view of the above, the petition sans any merit and is accordingly dismissed.

Sd/-
(Goutam Bhaduri)
JUDGE

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