

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-9435-2021
Date of Decision:-4.5.2021

Vishvaditya

... Petitioner

Versus

The State of Haryana and Another

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present:- Mr. Jangjit Singh Dahiya, Advocate
for the petitioner.

KARAMJIT SINGH, J.

Case has been heard through video conferencing on account of
COVID-19 Pandemic.

The petitioner has filed this petition under Article 226/227 of
the Constitution seeking writ of Certiorari / Mandamus for
quashing/modification of Rule 12(2)(b) of Haryana Civil Services
(Executive & Allied Services) Rules 2008 (in short 'Rules of 2008')
(Annexure P-9) and condition No.14 of Advertisement No.3/21 dated
26.2.2021 (Annexure P-3) issued by respondent No.2-The Haryana Public
Service Commission (in short 'HPSC') whereby applications were invited

till 2.4.2021 for posts of Haryana Civil Services (Executive) and Allied Services through a competitive examination, wherein the cut off date prescribed for possessing minimum educational qualification for appearing in the aforesaid examination was arbitrarily and unlawfully fixed as 2.4.2021 i.e. last date fixed for submission of applications.

The plea of the petitioner is that as per impugned condition No.14 of advertisement (Annexure P-3) candidate must possess a Bachelor degree in Arts / Science / Commerce or an equivalent degree from a recognized University as on 2.4.2021. The said condition debars all the students including the petitioner, who are to appear in final year examination of bachelor's degree, from applying for the aforesaid competitive examination. On the contrary all such students including the petitioner are eligible to appear in Civil Services Examination conducted by Union Public Service Commission (in short 'UPSC') as is clear from examination notice No.04/2021-CSP (Annexure P-4) whereby applications were called from eligible candidates till 24.3.2021. Even in other States, the candidates who are appearing in their final bachelor's degree examination are eligible to appear in State Civil Services (Executive Branch) examination.

The counsel for the petitioner submitted that the petitioner is final year student of 5 years dual degree programme in BE(Civil) and M.Sc. (Physics) of Birla Institute of Technology and Science, Pilani (Rajasthan). He has already applied to appear in Civil Services Examination to be conducted by UPSC, however at the same time, he is not eligible to appear in Haryana Civil Services Examination due to Rule 12(2)(b) of Rules of

2008 and condition No.14 of advertisement (Annexure P-3). The counsel for the petitioner contended that the aforesaid impugned provisions/conditions are violative of Articles 14 and 16 of the Constitution. The constitutional principle of equality is an inherent in the rule of law. Article 14 of the Constitution provides equality before law and it prevents distinctions that are not properly justified. The action of HPSC whereby final year students are debarred from appearing in State Civil Services Examination is totally arbitrary and irrational and not based on sound reasons. The counsel for the petitioner further contended that in these circumstances appropriate writ be issued by this Court, quashing / modifying Rule 12(2)(b) of Rules of 2008 and condition No.14 of Annexure P-3, with further prayer to allow the petitioner to appear in preliminary examination likely to be held in May / June 2021.

We have considered the submissions made by the counsel for the petitioner.

The grievance of the petitioner is that he being final year student of graduation course is eligible to appear in Civil Services Examination to be conducted by UPSC in 2021 but is not eligible to appear in Haryana Civil Services Examination 2021 regarding which applications were called by HPSC through advertisement (Annexure P-3).

The Haryana Government vide Notification dated 13.2.2008 notified Rules of 2008 for regulating the recruitment and conditions of services of persons appointed to the Haryana Civil Services (Executive Branch). Rule 12(2)(b) of Rules of 2008 provides as follows:-

- (2) No person shall be allowed to sit in the examination-
- (a) who is less than twenty-one year or more than forty years of age or such age limit as may from time to time be fixed by Government for entry into service, on or before the first day of January next preceding the last date appointed by the Commission for the submission of applications:
- Provided that the age limit for a person belonging to Scheduled Castes, Scheduled Tribes or Backward Classes shall be such as may be fixed by Government from time to time;
- (b) who does not possess a degree of Bachelor or Arts, Bachelor of Science, or Bachelor of Commerce or an equivalent degree of a recognised University.

On the basis of the aforesaid Rules of 2008, the HPSC issued advertisement (Annexure P-3), having condition No.14 which reads as follows:-

14. Minimum Educational Qualifications:

Candidates must possess a Bachelor Degree in Arts / Science / Commerce or an equivalent degree from a recognized University as on 02.04.2021 (Closing date).

Note: Candidates are directed to ensure that they are in possession of all the certificates / documents in support of their claim, which have been issued on or before the

closing date i.e. 02.04.2021. The certificates issued after the closing date will not be accepted by the Commission.”

The aforesaid Rules and Conditions debar final year students of bachelor degree from appearing in Haryana Civil Services (Executive Branch) Examination-2021. Undoubtedly, such students are eligible to appear in Civil Services Examination conducted by UPSC in 2021, as is evident from (Annexure P-4).

Both UPSC and HPSC are Constitutional and Autonomous bodies established by virtue of Article 315 of the Constitution. Their main function is to conduct examination for appointments to the services of the Union and the services of the State respectively. So, UPSC and HPSC are totally different entities. From the perusal of Annexure P-3 and Annexure P-4 it could be easily made out that the Haryana Civil Services Examination and Central Civil Services Examination are having totally different format and pattern. The preliminary examination of HPSC is of 200 marks whereas that of UPSC is of 400 marks. The main examination of HPSC comprises of 4 papers having total marks of 600 whereas main examination of UPSC comprises of 2 qualifying papers and 7 other papers whose marks are to be counted for merit and their grand total is 1750 marks. Thus there is no similarity in both the said examinations, being conducted by HPSC and UPSC respectively. It being so, the claim of the petitioner seeking parity regarding cut off date for possessing minimum educational qualification in Haryana Civil Services Examination, on the basis of norms prescribed by UPSC, is not tenable.

The HPSC being an independent establishment was competent to lay down its own selection criteria and the same cannot be faulted unless it is shown to be arbitrary or unreasonable. Conditions No.14 was included in advertisement (Annexure P-3) by the HPSC on the basis of Rules of 2008 which were notified by the State Government in exercise of the powers conferred by the proviso to Article 309 of the Constitution of India. We are of the view that a cut off date cannot be challenged merely because the petitioner has come within the adverse side of cut off date. Whenever a cut off date is fixed some of the aspirants like petitioner are going to face hardship but that by itself cannot be a ground for holding the cut off date so fixed by HPSC, to be ultra vires Article 14 of the Constitution. A cut off date by which all the conditions relating to educational qualification have to be met, cannot be ignored in a particular case of the petitioner.

In **State of Rajasthan vs. Hatindra Kumar Bhatt, (1997)6 SCC 574**, the Hon'ble Supreme Court observed that a cut off date by which all the requirements relating to qualifications have to be met, cannot be ignored in an individual case. There may be other persons who would have applied had they known that date of acquiring qualifications was flexible. They may not have applied because they did not possess the requisite qualification on the prescribed date. Relaxing the prescribed requirements in case of one individual may therefore cause injustice to others.

Furthermore, it is a policy decision of the Government and the HPSC, to fix the cut off date having regard to various considerations. This Court is expected to observe judicial restraint and cannot interfere casually

merely because some inconvenience is caused to individual person as has been held by the Hon'ble Supreme Court in **Government of Andhra Pradesh vs. N.Subbarayadu (2008)14 SCC 702.**

In the instant case, the last date for submission of application forms was 2.4.2021. The petitioner being ineligible had not submitted his application form to appear in the Haryana Civil Services Examination, 2021. The present writ petition was filed after the expiry of the last date fixed for submission of forms.

In the light of above, we do not find any ground to interfere. Consequently, this petition is hereby dismissed being devoid of merits.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

4.5.2021
Gaurav Sorot

Whether reasoned / speaking?

Yes / No

Whether reportable?

Yes / No