

PETITIONER:
A.P. PUBLIC SERVICE COMMISSION, HYDERABADANR.

Vs.

RESPONDENT:
B. SARAT CHANDRA & ORS.

DATE OF JUDGMENT 10/04/1990

BENCH:
SHETTY, K.J. (J)
BENCH:
SHETTY, K.J. (J)
SAHAI, R.M. (J)

CITATION:
1990 SCR (2) 463 1990 SCC (2) 669
JT 1990 (2) 143 1990 SCALE (1) 749

ACT:

Civil Services: A.P. Police Service Rules, 1966: Rule 5'Recruitment to the post of Deputy Superintendent of Police--Eligibility for-Fixation of minimum age of 21 years as on first day of July of the year of selection--Validity of.

HEADNOTE:

Rule 5 of the A.P. Police Service Rules, 1966 makes a person ineligible for appointment as Deputy Superintendent of Police unless he has completed the age of 21 years on the first day of July of the year in which the selection is made.

The appellant Service Commission notified on August 25, 1983 a combined examination for Grade I Services of the State, to be held in November, 1983 wherein the minimum age prescribed for selection to the post of Deputy Superintendent of Police was 21 years as on July 1, 1983 as against 18 years for other posts.

The respondent who was 19 days short of 21 years as on July 1, 1983 was not considered for appointment to the post of Deputy Superintendent of Police. He was, however, selected as Deputy Registrar of Cooperative Societies. He filed a petition before the State Administrative Tribunal seeking a direction to the appellant to select him to the post of Deputy Superintendent of Police, contending that the date for attaining the minimum age prescribed under the notification was contrary to Rule 5 of the Police Service Rules in as much as it ought to be the date of preparation of the list of selected candidates and not any date anterior to it. The Tribunal accepted that contention.

Allowing the appeal by the Service Commission, the Court,

HELD: The word 'selection' occurring in Rule 5 of the A.P. Police Service Rules, 1966 cannot be construed only as the factum of preparation of the select list. [467B]

The process of selection which begins with the issuance of
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advertisement and continues through scrutiny of applications, rejection of defective applications or elimination of ineligible candidates, conducting examinations, calling for interview or viva voce, ends with preparation of the select list for appointment. Rule 3 of the Rules of Procedure of the Public Service Commission is also indicative of all

these steps. When such were the different steps in the process of selection, the minimum or maximum age for 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 recruiting agency to scrutinise applications. [466F-467A]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 1147 of 1990.

From the Judgment and Order dated 22.9. 1989 of the A.P. Administrative Tribunal; Hyderabad in Representation Petition No. 3843 of 1989.

T.V.S.N. Chari, Mrs. B. Sunita Rao and Ms. Manjula Gupta for the Appellants.

K. Madhava Reddy, D.R.K. Reddy, Vimal Dave, B. Rajeshwar Rao and Mudu Vijai for the Respondents.

The Judgment of the Court was delivered by

K. JAGANNATHA SHETTY, J. This is an appeal by the A.P. Public Service Commission against the decision of the A.P. Administrative Tribunal dated September 22, 1989. The appeal raises a question as to the scope of Rule 5 of the A.P. Police Service Rules, 1966.

The facts are not in dispute and may be stated as follows: The Public Service Commission issued an Advertisement/Notification No. 18/1983 inviting applications for selection in a Combined Competitive Examination to be held in November, 1983 at Anantapur, Guntur, Hyderabad, Kakinada, Tirupathi, Visakhapatnam and Warangal Centres for recruitment to the posts included in Grade-I Services. The

Notification was published in the Gazette dated August 25, 1983. The post of Deputy Superintendent of Police was one of the posts for which applications were invited. The respondent applied to that post as well as to other posts. The minimum age prescribed for selection to the post of Deputy Superintendent of Police was 21 years as on July 1, 1983, as against 18 years for other posts. The respondent did not complete 21 years as on July 1, 1983. He was short by 19 days and his case, therefore, was not considered for appointment to post of Deputy Superintendent of Police. He was, however, considered to other posts since it was a combined selection for Grade-I Services.

In 1984, the Public Service Commission conducted preliminary examination for the eligible candidates. In 1985, final examination was conducted. In 1986, the candidates were called for interview. On 27 March 1987, the list of selected candidates was prepared for appointment to different categories of posts. The respondent was selected as Deputy Registrar of Co-operative Societies.

On 15 April 1989 i.e. about two years after the selection, the respondent approached the Andhra Pradesh Administrative Tribunal contending inter alia that the date 'for attaining the minimum age prescribed under the Notification was contrary to Rule 5 of the A.P. Police Service Rules, 1966. He claimed that such date ought to be the date of preparation of the list of selected candidates and not any date anterior to it. He accordingly sought a direction to

the Public Service Commission to select him to the post of Deputy Superintendent of Police since he had satisfied the required minimum age of 21 years as on the date of the select list. The Tribunal has accepted that contention and issued a direction to the State Government to create an additional post as a special case and appoint the respondent as Deputy Superintendent of Police, if necessary by reducing the number of posts for recruitment for the next year.

The decision of the Tribunal has been challenged in this appeal by the Public Service Commission since the view expressed therein is likely to affect the appointment of a large number of candidates.

There is no dispute that the eligibility of a candidate as to age for appointment as Deputy Superintendent of Police should be determined according to Rule 5 of the A.P. Police Service Rules. It is, therefore, necessary to look first at that Rule. Rule 5 so far as is relevant provides:

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"Rule 5. Qualifications--(A) No person shall be eligible for appointment as a Deputy Superintendent of Police, Category-2 by direct recruitment unless he--

(i) has completed the age of 21 years and had not completed the age of 26 years on the first day of July of the year in which the selection is made.

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The Rule prescribes the minimum as well as the maximum age for appointment as Deputy Superintendent of Police. Minimum age is 21 years. The candidate must have completed 21 years on the first day of July of the year in which the selection is made. He should not have also completed 26 years as on that day. The Tribunal while construing this Rule has observed:

"According to the procedure the process of selection begins with the issue of the advertisement and culminates in forwarding the list to the appointing authority. The essence of the process lies in the preparation of the list. A selection can be said to have been done only when the list is prepared. In this view the eligibility of the candidates as to age has to be determined at this stage."

If the word 'selection' is understood in a sense meaning thereby only the final act of selecting candidates with preparation of the list for appointment, then the conclusion of the Tribunal may not be unjustified. But round phrases cannot give square answers. Before accepting that meaning, we must see the consequences, anomalies and uncertainties that it may lead to. The Tribunal in fact does not dispute that the process of selection begins with the issuance of advertisement and ends with the preparation of select list for appointment. Indeed, it consists of various steps like inviting applications, scrutiny of applications, rejection of defective applications or elimination of ineligible candidates, conducting examinations, calling for interview or viva voce and preparation of list of successful candidates for appointment. Rule 3 of the Rules of Procedure of the Public Service Commission is also indicative of all these steps. When such are the different steps in the process of selection, the minimum or maximum age for 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

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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 recruiting agency to scrutinise applications. It would be, therefore, unreasonable to construe the word selection only as the factum of preparation of the select list. Nothing so bad would have been intended by the Rule making authority.

The appeal therefore, is allowed setting aside the order of the Tribunal.

In the circumstances of the case, however, we make no order as to costs.

P.S.S.

Appeal allowed.

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JUDIS