

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (S) No. 106 of 2014

Vandana Petitioner
Vs.
The State of Jharkhand & Ors. Respondents

**CORAM: HON'BLE THE CHIEF JUSTICE.
HON'BLE MR. JUSTICE SHREE CHANDRASHEKHAR.**

For the Petitioners: Mr. R.S. P. Sinha, Sr. Advocate.
Mr. Manoj Kumar, Advocate.
For the Respondents-State: Mr. Jai Prakash, A.A.G.
For the Respondent-JPSC: Mr. Sanjoy Piprawall, Adv.
For the High Court : Mr. Ajit Kumar

Dated 10th January, 2014

Heard the learned counsel appearing for the parties and perused the documents on record.

2. The petitioner has approached this Court seeking a direction upon the respondent nos. 2 and 3 to accept the 'application form', which she would be submitting for appearing in the Preliminary Test Examination for Jharkhand Judicial Service Civil Judge (Junior Division). The advertisement for the same was published on 11.12. 2013, inviting applications for appointment on the post of Civil Judge (Junior Division) in Jharkhand Judicial Services. The eligibility criteria as mentioned in the advertisement indicates that the applicant should be a Law Graduate from a recognized University and he must be enrolled as an Advocate under the Advocates Act, 1961.

3. The learned Senior counsel appearing for the petitioner has submitted that, though the result of L.L.B examination was published on 22nd December, 2013 in which

the petitioner was declared pass and she applied before the State Bar Council for enrollment as an Advocate, yet she has not been enrolled. Since no such decision has been taken by the State Bar Council, the petitioner may be permitted to submit her application for appearing in the examination. The learned Senior counsel for the petitioner has further submitted that there is no provision under the Advocates Act, 1961, which permits the Bar Council to delay the enrollment of an applicant and therefore, for no fault of the petitioner, the petitioner would be deprived of an opportunity of appearing in the examination.

4. Mr. Ajit Kumar, the learned Additional Advocate-General appearing for the High Court opposed the prayer of the petitioner. The learned counsel submits that Rule 8 of the Jharkhand Judicial Service (Recruitment) Rules, 2004 itself provides that the Commission may issue an advertisement inviting applications in the prescribed format, requiring the candidates to submit certificates. The petitioner has also annexed a copy of the Form which is annexed as Annexure-4 to the writ petition, a perusal of which would indicate that there is a requirement in the Form itself for providing the Registration Number and Year of Registration of the candidate. Rule 5(b) of the Jharkhand Judicial Service (Recruitment) Rules, 2004 also provides that a candidate should be a Graduate in Law from a recognised University and enrolled as an Advocate under the Advocates Act, 1961.

5. In view of the aforesaid facts, we find that the date on which the advertisement was issued i.e. 11.12.2013 and even on the last date for submitting the application form i.e. 10.01.2014, the petitioner does not possess the requisite qualification as provided under High Court of Jharkhand Rules, 2004 and as advertised by the JPSC.

6. In "*Rajasthan Public Service Commission Vs. Kaila Kumar Paliwal & Anr.*", reported in (2007) 10 SCC 260, the Hon'ble Supreme Court has held that a candidate must possess the minimum educational qualification on the date of advertisement and since in the present case, the petitioner admittedly does not possess the minimum educational qualification, no indulgence can be granted by this Court. Para-21 of the said judgment is extracted below:

21. "Recruitment to a post must be made strictly in terms of the Rules operating in the field. Essential qualification must be possessed by a person as on the date of issuance of the notification or as specified in the Rules and only in absence thereof, the qualification acquired till the last date of filling of the application would be the relevant date."

7. Accordingly, we are of the view that this writ petition deserves to be dismissed, hence dismissed.

Sd/-
(R. Banumathi, C.J.)

Sd/-
(Shree Chandrashekhar, J.)

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12.1.2014