

**THE HONOURABLE SRI JUSTICE SUJOY PAUL
AND
THE HONOURABLE SRI JUSTICE N. TUKARAMJI**

**WRIT PETITION Nos.12527, 12176, 12765, 12289, 11838 AND
11820 OF 2024**

COMMON ORDER: *(per Hon'ble SP,J)*

In these batch of Writ Petitions filed under Article 226 of the Constitution, the petitioners have challenged the constitutionality of Rule 2(k) and Rule (5.2)(A) of the Telangana State Judicial Service Rules, 2023 (hereinafter called 'Rules of 2023') which prescribes minimum and maximum age limit because of which few petitioners became ineligible for submission of their candidature for the post of Civil Judge (Junior Division). In addition, the petitioners have also called in question the provisions of the Rule which permits only Advocates practising in Telangana to participate in the selection process. The requirement of obtaining certificate of practice from the concerned Bar Association is another reason of grievance of the petitioners.

Contention of Petitioners:

W.P.No.12527 of 2024:-

2. The petitioners of this case are aggrieved by Rules 2 (k) and (5.2)(A) of Rules of 2023 and Clause 6 (A) of Notification dated 10.04.2024, on the ground that since they have crossed age of 26

years and the Rule prescribes the maximum age of 26 years, the Rules are *ultra vires* and liable to be struck down.

3. To elaborate, Sri Anup Koushik Karavadi, learned counsel for the petitioners, submits that in **All India Judges' Association and others vs. Union of India**¹, the Apex Court in clear terms opined about the need of meritorious candidates in the Judicial Services and laid down the law with the clear finding that in case of any modification in the judgment of the Apex Court is required, necessary directions must be obtained from the Supreme Court only. The High Court for the State of Telangana in **R. Anitha vs. State of Telangana and others**² followed the said judgment in **All India Judges' Association** (supra) and interfered with the rules which were contrary to the principles/law laid down in the case of **All India Judges' Association** (supra). Applying the same principles, offending conditions of the Rules which run contrary to the judgment of the Apex Court are liable to be set aside.

4. Learned counsel for the petitioners further submits that in addition to the above offending portion of Rules of 2023, namely Rule (5.2)(A), the petitioners are also questioning Rule 2(k), which was not subject matter of challenge in **Bodugula Brahmaiah and**

¹ (2002) 4 SCC 247

² 2019 SCC Online TS 2075

others vs. State of Telangana³. In the said case, the Division Bench of this Court opined that in the teeth of Rule 2(k), the 'High Court' 'means and includes' the High Court for the State of Telangana and other Courts which are working under the supervision of the High Court for the State of Telangana. It is submitted that the phrase 'means and includes' is wide enough to include other High Courts and their Subordinate Courts also.

5. By placing heavy reliance on the judgment of the Supreme Court in the case of **Chebrolu Leela Prasad Rao vs. State of Andhra Pradesh**⁴, it is submitted that any Rule which prescribes 100% reservation for local candidates will be unconstitutional and liable to be struck down.

6. The judgment of this Court in W.P.No.18002 of 2023 is passed without considering the judgment of the Apex Court in **Chebrolu Leela Prasad Rao** (supra) which makes it *per incuriam*. It is submitted that there is no justification in prescribing maximum age of 26 years and said Rule is arbitrary and may be set aside. As an interim measure the petitioners may be permitted to participate provisionally in impugned selection process. The last date of submission of candidature is 17.05.2024.

³ 2023 SCC Online TS 4105

⁴ (2021) 11 SCC 401

7. As canvassed, the petitioners, who have either completed more than 26 years of age or are of less than 23 years, the minimum and maximum age limit prescribed in the Rules of 2023 is coming in their way. By adopting argument of Sri Anup Koushik Karawadi, the learned counsel for the petitioners of W.P.No.12765 of 2024, the learned counsel for the petitioners submitted that such impediment of age is bad in law. In addition, it is submitted that Clause III of the impugned Rules mandates that the candidate must produce Certificate of Practice obtained from concerned Bar Association. Criticizing this, Sri Satish Munuga, learned counsel for the petitioners submits that as per Section 24 (1) (b) of Advocates Act, 1961, a person who is aspiring to become an Advocate has to be of minimum age of 21 years. There is no justification in depriving such meritorious advocates to become Civil Judge (Junior Division) by providing minimum age limit of 23 years.

W.P.No.12176 of 2024:

8. Learned counsel for the petitioners has adopted the aforesaid argument and apprised this Court that the petitioners of this case are below 23 years.

W.P.Nos.12765, 12289 and 11838 of 2024:

9. It is jointly informed by the learned counsel for the petitioners that the petitioners in these cases have crossed 26 years of age and aforesaid impediment of Rule is coming in their way and depriving them to enjoy their right of consideration. They also borrowed aforesaid arguments advanced by the learned counsel for the petitioners.

W.P.No.11820 of 2024:

10. Sri Pratap Narayan Sanghi, learned Senior Counsel appearing for the petitioners, submits that the petitioners are above the age of 26 years. While borrowing all the arguments of the previous counsel, the learned Senior Counsel for the petitioners submits that the respondents have divided the candidates into three categories, but all such candidates are intending to participate for the selection of Civil Judge (Junior Division). The prescription of maximum age is an artificial prescription, without there being any *intelligible differentia* or any object sought to be achieved. In support of his submission, he relied upon the judgment in the case of **Indravadan H. Shah vs. State of Gujarat**⁵ and urged that in absence of showing the aforesaid nexus and object, the offending provision is liable to be interfered with by this Court.

⁵ AIR 1986 SCC 1035

Stand of Respondents:

11. Sri Harender Pershad, learned Senior Counsel for the High Court appeared on advance copy and placed reliance on “Synopsis of Response”.

12. It is submitted that there is no basis for challenge to Rule 2(k) of Rules of 2023 i.e., ‘definition clause’ and it is the prerogative of the rule makers to frame the rules as per their administrative requirement. The Rule 2(k) became subject matter of discussion recently before Division Bench of this Court in **Bodugula Brahmaiah**. This Court has not agreed with the similar contention and opined that the definition relates to High Court of Telangana and Courts working subordinate thereto.

13. Learned counsel for the respondent further submits that there are three classes in the instant recruitment. He prepared a chart which reads as under:-

| | | | | | |
|--------------------------------|---|----|--|----|--|
| | Class I Enrolled as an Advocate with practice of 3+ years | OR | Class II Not Enrolled as an Advocate | OR | Class III Enrolled as an Advocate with practice of less than 3 years |
| Certificate of Practice | Required | | Not required | | Not required |
| Graduation Score | No minimum score | | Atleast 60% or 55% as the case may be | | Atleast 60% or 55% as the case may be |
| Age Group | 23 to 35/40 years | | 23 to 26/31 years | | 23 to 26/31 years |

14. It is submitted that no fault can be found in the rules. He submits that Rule 5(1)(a) of Rules of 2023 was also subject matter of challenge before the Division Bench in the aforesaid case and the constitutionality of the rule was upheld. The notification dated 12.01.2015 issued by the Bar Council of India in Clause 6.1 makes it obligatory for the Advocates to get themselves registered as a member of Bar Association where he ordinarily practises law or intends to practice law. Thus, one such condition of obtaining certificate of practice from the concerned Bar Association cannot be said to be without any basis or without there being any object sought to be achieved. This is in order to ensure that the person is actually practising in the Court or not. This provision cannot be treated to be arbitrary or unconstitutional in nature.

15. So far prescription of minimum and maximum age limit is concerned, learned Senior Counsel for the High Court submits that the decision of prescribing age for the employees is in the realm of 'policy decision'. It can be challenged on limited grounds. The same cannot be challenged merely because an individual is deprived because of an age limit prescribed by the Rules. A cutoff date has to be prescribed which will certainly deprive few persons who are below and above the cutoff age. This deprivation alone cannot be a reason to interfere with the Rules. By placing reliance of Orissa High Court

judgment in **Jnyananda Panda vs. State of Orisa**⁶, it is submitted that Dr.B.S.Chauhan, (as his Lordship then was) speaking for the Bench upheld the prescription of 32 years of maximum age for the purpose of selection of Civil Judge. Similarly, reliance is placed on a Division Bench Judgment of Himachal Pradesh High Court in **Satish Kumar and Others vs. State**⁷ where the prescription of minimum and maximum age limit of 21 and 30 years for judicial services was unsuccessfully challenged. The Apex Court Judgment in **Hirandra Kumar vs. High Court of Judicature at Allahabad**⁸ and **High Court of Delhi vs. Devina Sharma**⁹ were referred to where the cutoff age or years of practice became subject matter of adjudication by the Supreme Court. It is submitted that in both the cases, the Supreme Court made it clear that this being a 'policy matter' cannot be challenged. At the end, the learned counsel for the respondents submits that in view of the recent judgment of Madhya Pradesh High Court in case of **Devansh Kaushik and others vs. State of Madhya Pradesh**¹⁰, it is clear that the judgment of Apex Court in **All India Judges' Association** (supra) is not coming in the way of the employer to frame the rules. The Madhya Pradesh High Court did not agree with the similar contention and dismissed the petition.

⁶ 2009 SCC Online Ori 110

⁷ 2005 SCC Online HP 161

⁸ 2020 (17) SCC 401

⁹ 2022 (4) SCC 643

¹⁰ 2024 SCC OnLine MP 2272

The petition was also dismissed where certain percentage of marks prescribed as minimum eligibility condition under the Rules were also called in question. This judgment of Madhya Pradesh High Court was unsuccessfully challenged before the Supreme Court in SLP (C) No.9570 of 2024 which is dismissed by passing a reasoned order on 26.04.2024. In this view of the matter, there exists no reason for interference by this Court.

16. Parties confined their arguments to the extent indicated above. We have heard them at length.

FINDINGS:

17. Before dealing with rival contentions advanced at the Bar, it is apt to reproduce the relevant provision i.e., Rule (5.2)(A) of Rules of 2023 which reads as under:

“5. Eligibility for Direct Recruitment and Recruitment by transfer:

(5.1) ...

(5.2) Civil Judge (Junior Division):

(A) By Direct Recruitment: A person to be appointed to the category of Civil Judge (Junior Division):

- (I) Shall possess a Degree in Law of a University in India established or incorporated by or under a Central Act or a State Act or an Institution recognized by the University Grants Commission and enrolled in the Bar Council as an Advocate.

(and)

Must have been practicing as an Advocate or Pleader in the High Court or Courts working under the control of the High Court for

a period of not less than 3 years as on the date of Notification for recruitment to the post. Candidate shall produce certificate of practice obtained from the concerned Bar Association as proof.

(and)

Must have attained the age of 23 years and must not have attained the age of 35 years in the case of open category and 40 years in the case of persons belonging to Scheduled Castes, Scheduled Tribes and Backward Classes as on the date of Notification for recruitment to the post is made.

(or)

(II)(a) Must be a Law Graduate possessing a Degree in Law from a recognized University as mentioned in Clause (I) above, who is eligible to be enrolled as an Advocate and who has secured an overall 60% marks in acquiring such a Law Degree in case of open categories and 55% marks in respect of other reserved categories and has not enrolled as an Advocate. To fall into this category, candidate must have obtained Degree of Law within a period of three years prior to the date of Notification.

(and)

(b) Must have attained the age of 23 years and must not have completed the age of 26 years as on the date of notification for selection to the post is issued. The upper age limit is relaxable by 5 years in case of persons belonging to Scheduled Castes, Scheduled Tribes and Backward Classes.

(or)

(III)(a) Shall be a person who has enrolled as an Advocate, but do not possess three years practice at the Bar would be eligible to appear in the recruitment for the post of Civil Judge, under the category of fresh Law Graduates, provided they satisfy the other requisite eligibility criteria. Candidate shall produce certificate of practice obtained from the concerned Bar association as proof.”

Violation of directions issued by the Apex Court in the case of All India Judges’ Association (supra):

18. The petitioners urged that in view of the judgment of the Apex Court in **All India Judges’ Association** (supra), the pre-requisite of three years experience at Bar must be held to be impermissible and

deserves to be declared as unconstitutional. This aspect was recently considered by the Madhya Pradesh High Court in **Devansh Kaushik's** case (supra). While dealing with and rejecting the similar argument, the Madhya Pradesh High Court in the said case held as under:

“32. ...The best talent available have been given an opportunity to compete in the exam. It is no longer mandatory that an applicant should possess a three years practice. Therefore, we do not find that any clarification was required before the impugned amendment could be brought about. In our considered view, a clarification would have been required, if the High Court or the State Government were of the view that either it is mandatory to have a three years practice or/and it is not necessary to allow fresh graduates to practice. **Fresh law graduates have not been prevented from competing in the exam.** Furthermore, what was done away with in the aforesaid judgment was a mandatory condition of having a three years practice. **It does not debar a candidate who has a three years practice at the Bar.** The stress is on the word “mandatory”. The impugned amendment does not make it mandatory for a candidate to have a three years practice. **Furthermore, it does not prevent an advocate with a three years practice from competing.** The order of the Hon'ble Supreme Court is based on the recommendation of the Shetty Commission, which suggested that brilliant law graduates with a brilliant academic career should be allowed to compete in the exam. However, so far as the impugned amendment is concerned, **it has not debarred fresh law graduates from competing in the exam.**”

(Emphasis Supplied)

19. The above judgment was promptly challenged before the Apex Court in SLP (C) No.9570 of 2024 which was dismissed on 26.04.2024 by a reasoned order. The relevant portion of the said judgment reads as under:

“ Learned counsel has made elaborate argument to challenge the impugned judgment of the Division Bench upholding the

validity of the Rule 7(g) of the Madhya Pradesh Judicial Service (Recruitment and Condition of Service) Rules, 1994. The justification given by the High Court to uphold the validity of the Rule has been taken into account. We see no reason to interfere with the said view. The Special Leave Petitions are accordingly dismissed.”

(Emphasis Supplied)

20. In the instant case also, the meritorious law students got full chance to participate in the selection. In addition, the Advocates also became eligible, if they fulfil the requirement of Rules of 2023. Thus, we are unable to hold that Rules of 2023 are bad in law and passed in contravention of judgment of the Apex Court in **All India Judges' Association** (supra) and this Court in **R.Anitha** (supra).

21. It is trite that when SLP is dismissed without assigning any reasons in *limine*, it cannot be said that finding given by the High Court got a stamp of approval from the Apex Court. In converse, if a finding is given by passing a reasoned order by the Apex Court, the position will be other way round. In this view of the matter, we are inclined to follow the view taken by the Madhya Pradesh High Court in **Devansh Kaushik** (supra).

Validity of Rule 2(k):

22. Rule 2(k) of Rules of 2023 reads as under:

“2(k) “**High Court**” means and includes High Court for the State of Telangana w.e.f. 02.06.2014.”

23. The above Rule i.e., Rule 2(k) and Rule (5.2)(A) became subject matter of criticism and challenge on the ground that the candidature cannot be confined for the Advocates practising in High Court Telangana and Courts subordinate to it.

24. Another limb of argument of Sri Anup Koushik Karavadi, learned counsel for the petitioners, was that in Rule 2(k), the law makers used the expression 'means and includes High Court' which is wide enough to include any other High Court and its subordinate Courts. We are unable to persuade ourselves with this line of argument. The purpose of using the expression 'means and includes High Court' was considered in *extenso* by a Division Bench of this Court in **Bodugula Brahmaiah** and relevant portion thereunder reads as under:

"23. In the definition clause, Rule 2(k) uses the expression 'means and includes'. It is well settled rule of statutory interpretation that when a particular expression is defined by the legislature by using the word 'means and includes', the use of word 'means' that the definition is hard and fast definition and no other meaning can be assigned to the expression that is put down in the notification. The word 'includes' when used enlarges the meaning of the expression defined, so as to comprehend not only such things as they signify according to their natural import but also things which the clause declares that they shall include. It is equally well settled in law that expression 'means and includes', on the other hand, indicate "an exhaustive explanation of the meaning which, for the purposes of the Act, must invariably be attached to these words or expressions (See P.Kasilingam vs. P.S.G.College of Technology {1995 Supp (2) SCC 348}). The aforesaid principle of statutory interpretation was re-affirmed by a three Judge Bench of Supreme Court in Bharat

Cooperative Bank (Mumbai) Limited vs. Cooperative Banks Employees' Union {(2007) 4 SCC 685}.

24. In the backdrop of aforesaid well settled legal principles of statutory interpretation, we may refer again to Rule 2(k) of the Rules. The erstwhile State of Andhra Pradesh was bifurcated into two successor States, namely State of Telangana and State of Andhra Pradesh with effect from 02.06.2014. The High Court for the State of Telangana was established with effect from 01.01.2019. The Rule requires that an advocate must have put in seven years of practice. In case the aforesaid requirement of seven years would have been counted from the date of establishment of the High Court, no candidate would have been eligible. Therefore, the Rule Making Authority has used the expression 'includes' to mean High Court for the State of Telangana with effect from 02.06.2014 so that the advocates practising before the erstwhile High Court for the then State of Andhra Pradesh as well as the High Court for the State of Telangana would be eligible for consideration for recruitment to the post of District Judge. **The contention that the expression 'High Court' used in Rule 2(k) of the 2023 Rules includes other High Courts as well is misconceived and the same is therefore negated.** The third issue is answered accordingly."

(Emphasis Supplied)

25. This Court in paragraph 24 poignantly made it clear about the purpose of using the words 'means and includes' in Rules of 2023. We are in respectful agreement with the view taken by the previous Bench. Thus, it cannot be held that the word 'includes' is wide enough to include other High Courts.

26. The definition 'High Court' was inserted in Rule 2(k) for a purpose which is explicitly made clear in paragraph 24 of the aforesaid judgment. Since there exists an object sought to be achieved for inserting such definition, it cannot be said that Rule

2(k) of Rules of 2023 is unconstitutional in nature. Thus, challenge to constitutionality must fail.

27. A conjoint reading of different clauses of Rule (5.2)(A) and impugned notification leaves no room for any doubt that High Court and other Courts working under the control of High Court means the High Court of Telangana and the Courts working under the said High Court. We do not see any reason to take a different view and held these provisions as *ultra vires*.

28. In the case of **Bodugula Brahmaiah** (supra), another set of attack was on Rule (5.1)(a) of Rules of 2023. To assail this Rule, the judgment of **Chebrolu Leela Prasad Rao** (supra) was also relied upon. The Division Bench clearly held as under:

“32. Thus, no factual foundation has been laid in the pleadings with regard to challenge to validity of Rule 5(1)(a) of 2023 Rules. Even otherwise, the Rule has been enacted to ensure suitable and proper persons in the judicial service with a view to secure fair and efficient administration of justice and the Rule Making Authority is competent to prescribe qualifications for eligibility for appointment. The object of enactment of the aforesaid Rule is to recruit suitable candidates to Telangana State Judicial Service who are acquainted with the practice of local Courts in Telangana and have the knowledge of local laws. The practice in subordinate courts or in the High Court is also a relevant test to prescribe.

33. It is pertinent to note that validity of a *pari materia* provision, namely Rule 5(3)(b) of Maharashtra Judicial Service Rules, 2008 was challenged before a Division Bench of High Court of Bombay in *Shobhit Gaur* (supra). Relevant portion of Rule 5(3)(b) is extracted for the facility of reference:

5(3)(b) Experience-Must have practiced as an Advocate in the High Court or Courts subordinate thereto for not less than three years on the date of publication of Advertisement; or Must be a fresh law Graduate who - (i) has secured the degree in law by passing all the examinations leading to the degree in the first attempt;

34. The said Rule was challenged on the touchstone of Article 14 of the Constitution of India on the ground that it unfairly discriminates between the advocates who are practising in Maharashtra and the advocates who are practising outside. The Division Bench of Bombay High Court held that the petitioner in the said case was an Advocate practising in Delhi. The Bombay High Court by Judgment in *Shobhit Gaur* (supra) upheld the validity of Rule 5(1)(b) of Maharashtra Judicial Service Rules, 2008. It is also pertinent to note that a Special Leave Petition preferred against the Judgment dated 24.08.2018 passed by the Division Bench of Bombay High Court in *Shobhit Gaur* (supra) was dismissed by the Supreme Court vide order dated 09.12.2021 passed in S.L.P. (C) No. 27341 of 2018.

35. Admittedly, the petitioners are not practising advocates in the High Court for the State of Telangana or the Courts subordinate thereto for a period of seven years. For the aforementioned reasons, Rule 5(1)(a) of 2023 Rules does not suffer from any infirmity. Accordingly, the fourth issue is answered.”

(Emphasis Supplied)

29. A plain reading of the aforesaid finding makes it clear that Rule (5.1)(a) is analogous to Rule 5(3)(b) of the Maharashtra Judicial Service Rules, 2008 which became subject matter of challenge before the High Court of Bombay. The High Court of Bombay gave its stamp of approval to the said rules. The said judgment of High Court of Bombay dated 24.08.2018 was unsuccessfully challenged before the Apex Court by way of SLP, which came to be dismissed on

09.12.2021. For this reason also, we are persuaded to follow the judgment of this Court in **Bodugula Brahmaiah** (supra).

Requirement of certificate of practice from Bar Association:

30. Rule (5.2)(A) makes it obligatory for practising Advocate candidates to produce certificate of practice obtained from concerned Bar Association as proof. Clause 6.1 of Bar Council of India notification dated 12.01.2015 published in Official Gazette reads thus:

“6.1 An advocate, after having obtained a Certificate of Enrollment under section 22 of the Advocates Act, 1961, is required to get himself registered as a member of the Bar Association where he ordinarily practices law or intends to practice law. And if any Advocate does not intend to be a member of any Bar Association duly recognized by concerned State Bar Council, then he shall be required to intimate the same to the State Bar Council and he shall have to explain as to how shall he be getting the benefits of any welfare scheme floated by the State Bar Council or the Local Bar Association. The decision of State Bar Council shall be final in this regard.”

(Emphasis Supplied)

31. Thus, the requirement to furnish such certificate is not without any basis. The purpose to obtain that certificate is to ensure that the Advocate is actually practising in the concerned Court. Since there is an object sought to be achieved, the same cannot be called as unconstitutional. Thus, this ground must also fail.

Minimum and Maximum Age Limit:

32. A plain reading of different clauses of Rule (5.2)(A) of Rules of 2023 shows that minimum and maximum age is prescribed for Advocate candidates and for law graduates.

33. Sri Pratap Narayan Sanghi, learned Senior Counsel, submits that when all such candidates whether Advocates or law graduates are entering the services as Civil Judge (Junior Division), prescription of different age for them is unconstitutional and without there being any justification. We do not see any merit in the said contention. The quality clause can be enforced amongst equals. A candidate intending to participate as an Advocate is not similarly situated *qua* a candidate who is not an Advocate and merely a law graduate. Thus, we are unable to persuade ourselves with this line of argument that age limit for all of them must be the same.

34. A fresh law graduate after attaining the age of 23 years can prefer his candidature. For practising Advocates, the age limit is different. Both the set of candidates are from different categories. Thus, they cannot be equated for all purposes. In this backdrop, the judgment of the Apex Court in **Indravadan H. Shah** (supra) cannot be pressed into service.

Prescription of age is a policy decision:

35. In catena of judgments, the Courts opined that it is the prerogative of the employer to decide the eligibility, educational qualification, age, etc., of the candidates. It is mainly a managerial/administrative decision which is within the province of the employer. The Apex Court even called this as 'policy decision'.

36. In **Hirandra Kumar vs. High Court of Allahabad**¹¹, while dealing with the aspect of prescription of age for Judicial Officer, the Apex Court clearly held that

“21. The legal principles which govern the determination of a cut-off date are well settled. The power to fix a cut-off date or age-limit is incidental to the regulatory control which an authority exercises over the selection process. A certain degree of arbitrariness may appear on the face of any cut-off or age-limit which is prescribed, since a candidate on the wrong side of the line may stand excluded as a consequence. That, however, is no reason to hold that the cut-off which is prescribed, is arbitrary. In order to declare that a cut-off is arbitrary and ultra vires, it must be of such a nature as to lend to the conclusion that it has been fixed without any rational basis whatsoever or is manifestly unreasonable so as to lead to a conclusion of a violation of Article 14 of the Constitution.

27. These judgments provide a clear answer to the challenge. The petitioners and the appellant desire that this Court should rollback the date with reference to which attainment of the upper age-limit of 48 years should be considered. Such an exercise is impermissible. In order to indicate the fallacy in the submission, it is significant to note that Rule 12 prescribes a minimum age of 35 years and an upper age-limit of 45 years (48 years for reserved candidates belonging to the Schedule Castes and Tribes). Under the Rule, the age limit is prescribed with reference to the first day of January of the year following the year in which the notice inviting applications is published. If the relevant date were to be rolled back, as desired by the

¹¹ (2020) 17 SCC 401

petitioners, to an anterior point in time, it is true that some candidates who have crossed the upper age-limit under Rule 12 may become eligible. But, interestingly, that would affect candidates who on the anterior date may not have attained the minimum age of 35 years but would attain that age under the present Rule. We are adverting to this aspect only to emphasise that the validity of the Rule cannot be made to depend on cases of individual hardship which inevitably arise in applying a principle of general application. Essentially the determination of cut-off dates lies in the realm of policy. A Court in the exercise of the power of judicial review does not take over that function for itself. Plainly, it is for the rule-making authority to discharge that function while framing the Rules.”

(Emphasis Supplied)

37. The principle laid down in **Hirandra Kumar** (supra) was followed with profit in **Devina Sharma** (supra) and it was held as under:

“24. The recommendations of the Shetty Commission were initially followed by an order of a three-Judge Bench of this Court in *All India Judges Assn. v. Union of India* [*All India Judges Assn. v. Union of India*, (2002) 4 SCC 274] . By the order of this Court, the States and the Union Territories to whom a copy of the report had been submitted were directed to submit their responses to the Union of India expeditiously. Eventually, the Report of the Shetty Commission resulted in the judgment of a three-Judge Bench of this Court in *All India Judges Assn. (3) v. Union of India* [*All India Judges Assn. (3) v. Union of India*, (2002) 4 SCC 247 : 2002 SCC (L&S) 508] . The rules of several High Courts provide that for recruitment to the Higher Judicial Service, the candidate should be of a minimum age of 35, with a maximum age limit of 45 years. For instance, the rules pertaining to the U.P. Higher Judicial Service were noticed in a decision of a two-Judge Bench of this Court in *Hirandra Kumar v. High Court of Allahabad* [*Hirandra Kumar v. High Court of Allahabad*, (2020) 17 SCC 401 : (2021) 2 SCC (L&S) 801] (“*Hirandra Kumar*”). The prescription of a rule providing for a minimum age requirement or maximum age for entry into service is essentially a matter of policy. After noticing the earlier precedents on the subject, this Court in *Hirandra Kumar* [*Hirandra Kumar v. High Court of Allahabad*, (2020) 17 SCC 401 : (2021) 2 SCC (L&S) 801] observed that the determination of cut-offs lies in the realm of policy.”

38. The similar view was taken by Orissa High Court in **Jnyananda Panda** (supra) and Himachal Pradesh High Court in **Satish Kumar and others** (supra).

39. In view of the *ratio decidendi* of these judgments, no fault can be found in the impugned Rules in prescribing different age limits for different category of candidates.

40. Resultantly, we are unable to hold that there was no *intelligible differentia* and objects sought to be achieved while prescribing the different age for different set of candidates. In other words, it cannot be held that the said classification in respect of age is an unreasonable classification.

41. Furthermore, it was argued that when a law graduate can be enrolled as an Advocate as per Advocates Act, at the age of 21 years, it is irrational to deprive him to submit his candidature under the impugned rules till he attains the age of 23 years. At the cost of repetition, in our view, it is the prerogative of the employer. The employer is best suited to decide when a category of candidate can be treated to be matured enough to enter Judicial Service. If such a decision is taken by employer by prescribing an age, it cannot be interfered with unless proved to be palpably arbitrary and irrational. Merely because a law graduate can become an Advocate at the age of

21 years, it does not give him any enforceable right to participate at the same age for Judicial Service. This argument must also fail.

42. In view of foregoing analysis, we do not find any unconstitutionality in the relevant rules of Telangana State Judicial Service Rules, 2023 and consequently, notification dated 10.04.2024 issued by respondent No.3 is not bad in law. Therefore, admission of these Writ Petitions is declined and the Writ Petitions are **dismissed**.

There shall be no order as to costs. Miscellaneous applications pending, if any, shall stand closed.

SUJOY PAUL, J

N. TUKARAMJI, J

Date: 02.05.2024
L.R. to be marked: Yes.
B/o. TJMR