

**CHHATTISGARH PUBLIC SERVICE
COMMISSION**

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR**WRIT PETITION NO.3171 OF 2004****D.D. 28.9.2004****HON'BLE SHRI A.S.VENKATACHALA MOORTHY, CJ****& HON'BLE SHRI L.C.BHADOO, J.****Sarita Das** ... **Petitioner**

Vs.

State of Chhattisgarh & Anr. ... **Respondents****Age relaxation:**

Fixing minimum age for applying to the post of Civil Judge Class-II Chhattisgarh Lower Judicial Service (Recruitment and Conditions of Service) Rules, provides that a candidate should be of 25 years of age to apply for the post – Petitioner who is a Law Graduate below 25 years has sought for quashing of the said Rule on the ground that it is contrary to clear mandate of the Supreme Court in All India Judges Association & Ors. Vs. Union of India & Ors. case (AIR 2002 SC 1752) – Pursuant to the said decision the requirement of having practice at the Bar not less than 3 years for applying for the post has been dispensed with but the Rules were not amended to reduce the minimum age of 25 years – High Court allowed the writ petition quashing the Rule fixing 25 years as minimum age and directed the 2nd respondent to make necessary publication that even persons who have not completed 25 years of age, but, possessing the qualification can apply etc.

Held:

If the rule is allowed to stand, then a person who secures a law degree at the age of 21 will have to wait for four years to become eligible to apply for a post in Lower Judicial Service. That being so, fixing minimum of 25 years of age cannot be said to be not contra to the directions given by the Supreme Court.

ORDER

The following order of the Court was passed by A.S.Venkatachala Moorthy, CJ:-

The petitioner who is a fresh Law Graduate prays this Court to issue a writ of certiorari to quash Rule 7(b) of Chhattisgarh Lower Judicial Service (Recruitment and Conditions of Service) Rules, 1994 (2001?) to the extent that it lays down that a candidate should be of 25 years of age to apply for a post in Lower Judicial Service. His grievance is that such a rule cannot be allowed to be there in view of the clear mandate of Supreme Court of India in the case of All India Judges Association and Others Vs. Union of India and Others reported in AIR 2002 SC 1752. Further case of the petitioner is that second respondent has now called for the applications from the candidates who are Law Graduates for the post of Civil Judge, Class-II who have completed 25 years of age.

(2) First respondent has filed a reply resisting the claims of the petitioner contending that in view of what has been stated in para-40 of the judgment in the case of All India Judges Association (supra), the petitioner who in effect seeks only a clarification has to go before that Court and this Court may not entertain the writ petition. Alternatively, it is contended that fixing such minimum age has a reasonable nexus with the object sought to be achieved and therefore, eligibility criteria does not suffer from any legal and constitutional infirmity. According to this respondent the directions given by the Supreme Court in the above-referred case has been complied with and now the requirement of having practice not less than three years has been dispensed with. The first respondent has endeavoured to explain that by the time a person completes his law examination he will be 23rd/24th year of age and after making necessary preparations for the competitive examination he becomes eligible for the test of Civil Judge Class-II on attaining the age of 25. After so explaining, the first respondent has concluded by stating that the rule prescribing the minimum age cannot be said to be discriminatory, arbitrary and unreasonable, and consequently the writ petition has to be dismissed.

(3) The second respondent namely Public Service Commission has filed a reply independently, but however putting forth the same points raised by the first respondent. The only extra point that has been raised by the second respondent is that the writ petition is liable to be dismissed for laches since the advertisement for calling of applications by second respondent was made as early as 19.8.2004, but the present petition was filed only on 10.9.1994 and according to him there has been inordinate delay in petitioner approaching this Court.

(4) The State of Chhattisgarh was in fact originally a part of State of Madhya Pradesh till

01.11.2000. After formation of the new State, rules of Madhya Pradesh have been extended to be in force in this State. It is necessary and appropriate to refer to the relevant rule as it stood earlier.

In pursuance of the provisions contained in Proviso to Article 309 of the Constitution of India, the Government of Madhya Pradesh was pleased to make the rules for consideration of the judicial service and for regulating the recruitment and conditions of service of persons appointed to that service. The rules are called 'Madhya Pradesh Judicial Service (Classification, Recruitment and Conditions of Service) Rules, 1955'. According to Rule 19 no person shall be eligible for appointment of Civil Judge unless he/she is a Graduate of Law of any University and has practised at the Bar for not less than three years. That rule prescribes only maximum age as 30 years; however, the same was relaxed up to 32 years in case of candidates applying from the castes or tribes specified in the Constitution (Scheduled Castes) Order, 1950 or Constitution (Scheduled Tribes) Order, 1950.

(5) The said rules continued to be in force till 1995 when the Madhya Pradesh Lower Judicial Service (Recruitment and Conditions of Service) Rules 1994 came into force on 17.10.1994. The said rules (1994 Rules) repeal all rules corresponding to these rules, orders and resolutions, if any, and in force immediately before commencement in respect of matters covered by these rules.

Rule 7 of 1994 Rules lays down as under:

"7. Eligibility.- No person shall be eligible for appointment by direct recruitment to posts in category (i) of Rule 3(i) unless:-

- (a) he is a citizen of India;
- (b) he has attained the age of 25 years and not completed the age of 35 years on the first day of January of the year in which applications for appointment are invited:
Provided that the upper age of limit shall be relaxable up to a maximum of five years if a candidate belongs to scheduled Castes, Scheduled Tribes or other Backward Classes:

Provided further that the upper age limit of a candidate who is a Government servant (whether permanent or temporary) shall be relaxable up to 38 years;

- (c) he possesses a degree in law of any recognised University;

(d) he has practised as an advocate for not less than three years on the first day of the January of the year in which applications for appointment are invited; and

(e) he has good character and is of sound health and free from any bodily defect which renders him unfit for such appointment.”

(6) The Government of Chhattisgarh issued Notification bearing No.6700/21-AP.2001/CG, dated 27th December 2001, extending the Madhya Pradesh Lower Judicial Service (Recruitment and Conditions of Service) Rules, 1994 to this State. The order reads thus:

ORDER

1. (1) This order may be called the Adaptation of Laws Order, 2000.

(2) it shall come into force in the whole State of Chhattisgarh on the First day of November, 2000.

2. The Laws as amended from time to time, specified in the Schedule to this Order, which were in force in the State of Madhya Pradesh immediately before the formation of the State of Chhattisgarh, are hereby extended to and shall be in force in the State of Chhattisgarh until repealed or amended. Subject to the modifications that in all the laws for the words “Madhya Pradesh” wherever they occur the word “Chhattisgarh” shall be substituted.

3. Any thing done or any action taken (including any appointment, notification, notice, order, form, rule, regulation, certificate or licence) in exercise of the powers conferred by or under the laws specified in the Schedule shall continue to be in force in the State of Chhattisgarh.

SCHEDULE

Sl.No.	Name of Laws
	(1) (2)
1.	Madhya Pradesh Civil Court Adhiniyam, 1958.
2.	_____
15.	The Madhya Pradesh Lower Judicial Service (Recruitment and Conditions of Service) Rules, 1994.
16.	_____

[Emphasis Supplied]

Now this rule is described as Chhattisgarh Lower Judicial Service (Recruitment and

Conditions of Service) Rules, 1994 in the advertisement made by the second respondent rightly because the order referred (*supra*) does not say that the year must be substituted as 2001 instead of 1994. In fact the order should have been to the effect that the year also shall stand substituted as 2001.

(7) The Supreme Court in *All India Judges Association and Others* (*supra*) had occasion to examine various aspects/questions including conditions of service of subordinate judiciary. In that case the Supreme Court also considered the report of Shetty Commission and the question as to whether while appointing a person to the post of judicial service (Civil Judge, Class-II), it has to be insisted that such person should have atleast three years of experience as an advocate. The Apex Court answered in negative and directed all High Courts and the State Governments to amend their Rules so as to enable a fresh Law Graduate who may not even have put in even three years of practice, to be eligible to compete and enter the judicial service. We deem it necessary to extract herein the relevant paragraph in the said judgment.

“32. In the *All India Judges’s* case, (1993 (4) SCC 288 at P.314), this Court has observed that in order to enter the Judicial Service, an applicant must be an Advocate of at least three years standing. Rules were amended accordingly. With the passage of time, experience has shown that the best talent which is available is not attracted to the Judicial Service. A bright young law graduate after 3 years of practice finds the Judicial Service not attractive enough. It has been recommended by the Shetty Commission after taking into consideration the views expressed before it by various authorities, that the need for an applicant to have been an Advocate for at least three years should be done away with. After taking all the circumstances into consideration, we accept this recommendation of the Shetty Commission and the argument of the learned *Amicus Curiae* that it should be no longer mandatory for an applicant desirous of entering the Judicial Service to be an Advocate of at least three years standing. We, accordingly, in the light of experience gained after the Judgment in *All India Judges’* case directs to the High Courts and to the State Government to amend their rules so as to enable a fresh law graduate who may not even have put in even three years of practice, to be eligible to compete and enter the Judicial Service. We, however, recommended that a fresh recruit into the Judicial Service should be imparted with training of not less than one year, preferably two years.” (emphasis supplied).

(8) While it is the case of the respondents that in obedience to the directives of Supreme Court they are not insisting that the applicant should have three years standing at the Bar and it is complete compliance, learned counsel for the petitioner would contend that the rule insisting that a candidate applying for the post of Civil Judge, Class-II should have completed 25 years of age would go contra to the directives of Supreme Court since it is possible that there may be candidates who have passed the law degree but they are below 25 years of age, may be even 21, 22 or 23.

(9) If we carefully peruse the judgment of the Supreme Court of India in the case referred (supra) it could be seen that the Supreme Court directed all the High Courts and the State Governments to amend their Rules so as to enable a fresh law graduate to be eligible to apply for the post of Civil Judge, Class-II. It is not the case of the respondents that a student cannot obtain a law degree before he completes 25 years of age. All that they have stated in the reply is that generally a student completes law graduation during his 23rd/24th year and thereafter he prepares for the competitive examination and by that time he will be 25 years of age. If the rule is allowed to stand, then a person who secures a law degree at the age of 21 will have to wait for four years to become eligible to apply for a post in Lower Judicial Service. That being so, fixing minimum of 25 years of age cannot be said to be not contra to the directions given by the Supreme Court. Once we come to such a conclusion, the Chhattisgarh Lower Judicial Service (Recruitment and Conditions of Service) Rules, 1994 fixing 25 years as the minimum age [Rule 7(b)] has to be quashed. In the result, Rule 7(b) of the Chhattisgarh Lower Judicial Service (Recruitment And Conditions of Service) Rules, 1994 in so far as fixing minimum age as 25 years is hereby quashed and consequently it has to be declared that even those who have not completed 25 years, but have obtained a law degree of any recognised University can apply.

(10) Consequently, we direct the second respondent to make necessary publications prominently in the newspapers etc., as was done earlier referring to the earlier publication (19-08-2004) and informing the public that even persons who have not completed 25 years of age, but, possessing a law degree from any recognised University, can apply and for which purpose two weeks' time from the date of such advertisement should be granted. In the said advertisement it must also be made clear that the candidates who have applied already, need not apply again and their application already made will also be considered taking the age limit as on 1st January 2005.

(11) In the result, the writ petition is allowed.

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO.3701/2005

D.D. 12.9.2005

Hon'ble Mr. Justice Satish K.Agnihotri

Smt. Vijaya Dayal ... **Petitioner**

Vs.

Chhattisgarh Public Service Commission & Others ... **Respondents**

Recruitment – Whether number of vacancies advertised can be increased after the issue of Employment Notification and during the process of selection? – Yes.

In Employment Notification dated 19.8.2004, 30 vacancies of Civil Judge Class-II were advertised for recruitment with a clause that the number of vacancies would be subject to variation – Petitioner applied in response to the said notification – Written Examination was held on 15.2.2005 – Pursuant to further requisition of the High Court to increase the number of vacancies from 30 to 61 P.S.C. intimated the candidates through notification dated 15.2.2005 that the number of vacancies was increased from 30 to 61 as per the clause contained in the original notification – Result of the written examination was declared on 19.2.2005 and interview process was commenced from 12.9.2005 – Petitioner who was unsuccessful in the written examination and failed to become eligible to appear for the interview filed this Writ Petition on 4.8.2005 seeking cancellation of the notification dated 15.2.2005 – High Court dismissed the Writ Petition.

Held:

When the petitioner had appeared at the examination without protest and having failed in the examination, the petition challenging the examination should not be entertained and the petitioner is not entitled to any relief.

Further held:

The first notification dated 19.8.2004 clearly provided for variation clause that number of vacancies would be subject to variation. Therefore, there is no illegality or discrimination and the process of selection for 61 posts of Civil Judges Class-II is valid and legal.

Cases referred:

1. (1997) 4 SCS 426 – University of Cochin Vs. N.S.Kanjoonjamma & Ors.
2. (1998) 3 SCC 694 – Union of India & Anr. Vs. N.Chandrasekharan & Ors.
3. AIR 1998 SC 3268 – Roshni Devi & Ors. Vs. State of Haryana & Ors.
4. (2000) 2 SCC 615 – Suneeta Aggarwal Vs. State of Haryana & Ors.
5. (2001) 6 SCC 380 – All India SC & ST Employees’ Association & Anr. Vs. A.Arthur Jeen & Ors.
6. AIR 2001 SC 3757 – Sri Kant Tripathi & Ors. Vs. State of U.P. & Ors.
7. (2002) 6 SCC 127 – Chandra Prakash Tiwari & Ors. vs. Shakuntala Shukla & Ors.
8. (2002) 10 SCC 269 – Suvidya Yadav & Ors. vs. State of Haryana & Ors.

ORDER

1. The present petition filed under Articles 226/227 of the Constitution of India impugns the advertisement dated 15.2.2005 (Annexure P/3) whereby number of vacancies of the Civil Judge Class-II has been increased from 30 to 61, as being illegal, discriminatory and unconstitutional.
2. The undisputed relevant facts, in brief, are that the petitioner made an application for appointment to the post of Civil Judge Class-II pursuant to the advertisement No.02/2004/ Examination dated 19.8.2004 (Annexure P/1). In the said advertisement, notified vacancy of Civil Judge Class-II was 30. The said advertisement further provided that the number of vacancies would be subject to variation. On the basis of the requisition sent by the Law and Legislative Affairs Department, Govt. of Chhattisgarh, number of vacancies of Civil Judge Class-II was increased to 61, keeping in view the availability of the vacancies upto December, 2005, as informed by the Registrar General of the High Court vide Memorandum No.510/Confdl./2004/II-3-7/2002, Bilaspur, dated 28th December, 2004 to the effect that “there will be further requirement of 31 or more Civil Judges Class-II by the end of next year” i.e. 2005. Accordingly special notice was published on 15th February, 2005, which is impugned in this petition, informing that the posts of Civil Judges Class-II would be 61 in place of 30. The respondent No.2 on the basis of the requirement of Civil Judges, Class-II proceeded with the selection process. The written examination for selection of the candidates for interview and thereafter for appointment to the post of Civil Judge Class-II took place on 15.2.2005 and the result of the said examination was

declared on 19.2.2005. The Respondent No.1 and 2 are to initiate interview process from 12.9.2005. The petitioner finding herself unsuccessful in the result declared on 19.2.2005, has filed the instant petition on 4.8.2005 praying that the respondents be directed to cancel the advertisement dated 15.2.2005 relating to 31 posts of Civil Judge Class-II which was increased later on.

3. Learned counsel for the petitioner, Shri T.K.Tiwari submitted that there should have been separate examination for enhanced 31 vacancies to provide one more opportunity to the petitioner and as such the same was violative of Articles 14 and 16 of the Constitution of India. It was further contended that the respondents No.1 and 2 have no authority to increase number of vacancies of Civil Judge Class-II from 30 to 61, once it has been advertised that the number of vacancies would be 30.

4. Learned counsel for the petitioner, next, submitted that the Chhattisgarh Lower Judicial Service (Recruitment and Conditions of Service) Rules, 1994 does not provide for variation of number of posts after the vacancy has been notified in the advertisement.

5. Learned counsel for the petitioner next submitted that the petitioner was denied the opportunity of appearing again if there was no second examination process for the enhanced number of vacancies of 31 Civil Judge Class-II, as the petitioner would become over age.

6. Mr. Abhishek Sinha, learned counsel appearing for the Respondents No.1 and 2 in reply submitted that there was variation clause in the first advertisement dated 19.8.2004 to the effect that the number of vacancies is subject to variation. The petitioner having been applied pursuant to the said notification dated 19.8.2004 and having appeared in the written examination, has no right to challenge the variation clause to the extent that there was no provision under Rules to provide for variation clause in the advertisement. Learned counsel further submitted that the petitioner, having appeared in the examination held on 26.12.2004 and remained unsuccessful in the result declared on 19.2.2005, is estopped from filing this writ petition and this writ petition should not be entertained on this ground alone.

7. Next contention of learned counsel for the Respondents No.1 and 2 is that the petitioner having come to know on 19.2.2005 that she has been unsuccessful in the written examination waited till August, 2005 when she filed the instant petition on 4.8.2005 with the sole motive to defeat the process of interview for selection to the posts of Civil Judge Class-II. It is clearly

evident that there was no reason and she had also not explained, as to why the petitioner waited till August 2005 for filing writ petition when admittedly the interview is to commence from 12.9.2005.

8. Learned counsel for the Respondents No.1 and 2 further submitted that there is no violation of Articles 14 and 16 of the Constitution of India, as alleged by the petitioner, as there is no discrimination or arbitrariness, and the corrigendum was issued at the earliest possible i.e., 15.2.2005, on the basis of the variation clause mentioned in the original advertisement dated 19.8.2004, which was applicable to all the candidates who had applied for the examination. The petitioner as well as other candidates have more chances of success in view of the increase in number of vacancies from 30 to 61. Learned counsel prays for dismissal of the writ petition with costs.

9. Shri P.S.Koshy, learned Deputy Advocate General, with Shri Vivek Sharma, learned Panel lawyer appearing for the Respondent No.3/State, adopts the submissions made by learned counsel for the Respondents No.1 and 2.

10. In the case of Sri Kant Tripathi and others Vs. State of U.P. & others, A.I.R. 2001 S.C. 3757, cited by learned counsel for the petitioner, the Supreme Court while considering Rule 8 of the U.P. Judicial Service Rules (1975) held as under:-

(direction No.7)

“For all future appointments, the High Court must take steps to fill the vacancies of every recruitment year during the year itself. The High Court must determine the vacancies not only on the basis of the actual vacancies on the date of such determination but also take into account probable vacancies by reason of superannuation of officers in the next two years from that date. Once the vacancies are so determined, the percentage of the vacancies available for recruitment by direct recruitment and by promotion must be fixed and steps taken for filling up the same expeditiously. The number of vacancies available for the direct recruits quota must be advertised without any variation clause. The Select List prepared both for direct recruits as well as for promotees prepared by the High Court will be operative only till the next recruitment commences with the fixation of the vacancies for the next recruitment year.”

11. In the present case when the advertisement was issued for selection of Civil Judge Class-II it was found that by the end of the year 2005 the total requirement of Civil Judge-II would be 61, as such in the recruitment process which was on, number of vacancies was increased from 30 to 61.

12. The case of *Roshni Devi & Others Vs. State of Haryana & others*, A.I.R. 1998 S.C. 3268, cited by learned counsel for the petitioner is not applicable to the facts of the present case.

13. In the case of *University of Cochin Vs. N.S.Kanjoonjamma & Others* (1997) 4 S.C.S. 426, cited by the counsel for the Respondents No.1 and 2, the Supreme Court held as under:-

“4. In fact, the first respondent also had applied for and sought selection but remained unsuccessful. Having participated in the selection, she is estopped to challenge the correctness of the procedure.....”

14. In the case of *Union of India & another Vs. N.Chandrasekharan & Others* (1998) 3 S.C.C. 694, cited by learned counsel for the Respondents 1 and 2, the Supreme Court held as under:-

“13. It is not in dispute that all the candidates were made aware of the procedure for promotion before they sat for the written test and before they appeared before the Departmental Promotion Committee. Therefore, they cannot turn around and contend later when they found they were not selected by challenging that procedure and contending that the marks prescribed for interview and confidential reports are disproportionately high and the authorities cannot fix a minimum to be secured either at interview or in the assessment on confidential report.....”

15. In the case of *Suneeta Aggarwal Vs. State of Haryana & Others* (2000) 2 S.C.C. 615, cited by learned counsel for the Respondents No.1 and 2, the Supreme Court held as under:-

“4. Not only did she apply for the post, but she also appeared before the Selection Committee constituted consequent upon readvertisement of the post and that too without any kind of protest, and on the same day she filed a writ petition against the order of the Vice-Chancellor declining to accord his approval and obtained an ad interim order. In the writ petition she also did not disclose that she had applied for the post consequent upon the second advertisement. The appellant having appeared before the Selection Committee without any protest and having taken a chance, we are of the view that the appellant is estopped by her conduct from challenging the earlier order of the Vice Chancellor.....”

16. In the case of Chandra Prakash Tiwari & others Vs. Shakuntala Shukla & others, (2002) 6 S.C.C. 127, cited by learned counsel for the respondents No.1 and 2, the Supreme Court held as under:-

“32..... It is a remedy which stands barred and it is in this perspective in Om Prakash Shukla v. Akhilesh Kumar Shukla a three Judge Bench of this Court laid down in no uncertain terms that when a candidate appears at the examination without protest and subsequently found to be not successful in the examination, question of entertaining a petition challenging the said examination would not arise.”

“33. Subsequently, the decision in Om Prakash stands followed by a later decision of this Court in Madan Lal v. State of J & K wherein this Court stated as below: (SCC p.493, paras 9-10)

“9. Before dealing with this contention, we must keep in view the salient fact that the petitioners as well as the contesting successful candidates being respondents concerned herein, were all found eligible in the light of marks obtained in the written test, to be eligible to be called for oral interview. Up to this stage there is no dispute between the parties. The petitioners also appeared at the oral interview conducted by the members concerned of the Commission who interviewed the petitioners as well as the contesting respondents concerned. Thus the petitioners took a chance to get themselves selected at the said oral interview. Only because they did not find themselves to have emerged successful as a result of their combined performance both at written test and oral interview, they have filed this petition. It is now well settled that if a candidate takes a calculated chance and appears at the interview, then, only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of interview was unfair or the Selection Committee was not properly constituted. In the case of Om Prakash Shukla v. Akhilesh Kumar Shukla it has been clearly laid down by a Bench of three learned Judges of this Court that when the petitioner appeared at the examination without protest and when he found that he would not succeed in examination he filed a petition challenging the said examination, the High Court should not have granted any relief to such a petitioner.”

17. In view of the foregoing decisions of the Supreme Court, it is well settled that when the

petitioner had appeared at the examination without protest and having failed in the examination, the petition challenging the examination should not be entertained and the petitioner is not entitled to any relief. In the present case the petitioner in fact appeared in the examination, knowing very well that the number of vacancies of the posts of Civil Judge Class-II has been increased from 30 to 61 and having failed in the said examination in the result declared on 19.2.2005 filed the present petition after a gap of 5½ months to defeat the process of examination and selection for appointment to the posts of Civil Judge Class-II. Thus, the petitioner is not entitled to any relief in the facts and circumstances of the case.

18. In the case of All India SC & ST Employees' Association & another Vs. A.Arthur Jeen & Others, (2001) 6 S.C.C. 380 the Supreme Court held as under:-

“12. Similarly the contention that the vacancies to be filled up could not be increased to 917 from 330 originally notified without there being subsequent notification is untenable in view of the changed situation as explained above. No fault can be found with the direction of the High Court to issue appointments only to available vacancies on merit out of the candidates included in the panel of selected candidates following rules of reservation and that too reserving 3% seats to Physically handicapped instead of 2%. 382 vacancies would be available upto March 2002 possibly as of no all the 382 candidates may not be given appointment; the appointments may be given up to 330 or less. Further, the purpose of issuing notification and giving due publicity is to provide opportunity to as many eligible candidates as possible. Employment Notification No.1 of 1995 was issued on 7.9.1995 and the decision was taken to increase the posts on 17.5.1996, the time gap was hardly 8 months; as many as 58,675 made applications and 32,563 were called for interview. It was quite probable that all candidates eligible and interested including a large number of local candidates, applied for the posts. The time gap of about 8 months between the original notification and the decision to increase posts not being much, it cannot be said that many of the eligible candidates were deprived of applying for the posts looking to the requirements of eligibility. As already stated above, in the changed situation only 382 posts are to be filled up upto March 2002. The selected candidates are to be appointed on the basis of merit following rules of reservation applicable to different categories. The process of selection was long

drawn and the candidates were made to appear for interview twice. The candidates and their families have been waiting for a long time from 1995 with great hope of getting jobs. Enormous money and man-hours have been spent in completing the process of selection in preparing the panel of selected candidates. In this view there was no justification for the Tribunal to quash the entire panel of selected candidates.”

19. In the case of *Suvidya Yadav & Others Vs. State of Haryana & Others* (2002) 10 S.C.C. 269, wherein the facts were similar to the effect that the advertisement stated that an advertisement issued by the Haryana Public Service Commission on 16.2.1991 clearly stated the number of posts would be subject to variation to any extent. Initially, the number of posts advertised was 18 but on the requisition of the State Government, the number of posts was increased to 30. Accordingly the Public Service Commission made recommendations for appointment on 30 posts. The Supreme Court after considering held as under:-

“7.....We see no bar on the power of the Commission in recommending 30 names, which was the subject matter of challenge before the High Court. In fact the very judgment itself on which the learned Single Judge has relief upon in para 10 indicates the said position. Accordingly we set aside the impugned order passed by the learned Single Judge and affirmed by the Division Bench in appeal and hold that the recommendations made by the Commission are in accordance with law and therefore all the 30 names recommended are entitled to be appointed.”

20. The present case is squarely covered by the decision of the Supreme Court in the case of *Suvidya Yadav* (supra).

21. The first advertisement dated 19.8.2004 clearly provided for variation clause that number of vacancies would be subject to variation. On the basis of the requisition made by the State Government that the requirement of Civil Judges Class-II by the end of 2005 would be 31, a second advertisement was issued informing to all the applicants that they would be considered for 61 vacancies of Civil Judge Class-II. There is no illegality or discrimination and the process of selection for 61 posts of Civil Judges Class-II is valid and legal.

22. The contention of learned counsel for the petitioner that she would have got one more opportunity, had a new process of selection for increased 31 posts, be taken up separately is untenable and rejected.

23. For the reasons stated above, the petition is dismissed