

MYSORE HIGH COURT

G. Vatsala Rani

Vs

Selection Committee

Writ Petn. No. 1085 of 1966

(M. Sadasivayya and D.M. Chandrashekhar, JJ.)

23.09.1966

JUDGMENT

M. Sadasivayya, J.

1. The short question that arises for determination in this, petition under Article 226 of the Constitution is whether a person completes the age of a specified number of years, on the day of the calendar corresponding to the day on which he was born or on the day previous to that day.
2. The petitioner was an applicant for admission to the Pre-Professional course in Medicine. She had passed the Pre-University Examination having studies Physics, Chemistry and Biology. Her application was rejected on the ground that she was under-aged.
3. Regulation-1 of the Regulations for the Pre-Professional course in Medicine prescribes that an applicant for admission to the Pre-Professional course, shall have completed 16 years of age on the 1st October of the year in which he seeks admission.
4. The Petitioner was born on the 2nd October 1950. The Selection Committee for admission to Medical Colleges took the view that the petitioner will not have completed 18 years of age on the 1st October 1966, but will complete it only on the 2nd October 1966. The correctness of this view is challenged in this petition. Mr. M. R. Kamath, learned counsel for the petitioner, has contended that the petitioner will have completed 16 years of age on the 1st October 1966, and hence she is not under-aged.
5. Mr. E. S. Venkataramiah, the learned Special Government Pleader, submitted that our decision on this question will afford guidance to the Selection Committees and other academic authorities in determining whether applicants have completed minimum ages prescribed for different courses of studies.

6. At first impression it may appear that a person born on the 2nd October 1950 will complete 16 years of age only on the 2nd October 1966 and not on the 1st October 1966. But we have to apply well accepted rules for computation of time. One such rule is that fractions of a day will be omitted in computing a period of time in years or months in the sense that a fraction of a day will be treated as a full day.

In Halsbury's Laws of England, Simonds Edition, Vol. 37, it is stated thus in para. 178, page 100 :

"In computing a period of time, at any rate, when counted in years or months, no regard is generally paid to fractions of a day, in the sense that the period is regarded as complete although it is short to the extent of a fraction of a day . .

Similarly, in calculating a person's age the day of his birth counts as a whole day; and he attains a specified age on the day next before the anniversary of his birth day.'

7. In *Rex v. Scoffin*¹, the question was whether the accused had or had not completed 21 years of age. Section 10 (1) of the Criminal Justice Administration Act, 1914, provides that a person might be sent to Borstal if it appears to the court that he is not more than twenty-one years of age. The accused was born on February 17, 1907. Lord Hewart, C. J. held that the accused completed twentyone years of age on February 16, 1930 and that he was one day more than twentyone years of age on February 17, 1930 which was the Commission day of Manchester Assizes.

8. In *Savory v. Shurey*², the question that arose for decision was this : Does a person attain a specified age in law on the anniversary of his or her birthday, or on the day preceding that anniversary? After reviewing the earlier decisions, Sargant J. said that law does not take cognizance of part of a day and the consequence is that person attains the age of twentyone years or of twentyfive years, or any specified age, on the day preceding the anniversary of his twentyfirst or twenty-fifth birthday or other birth day, as the case may be.

9. His Lordship observed that it is in recognition of the difference between how it is legally construed and how it is understood in common parlance, that the Legislature has expressly provided in Section 79 of the National Insurance Act, 1911, that for the purposes of the part of that Act in which the section is placed, a person shall be deemed to have attained the age of seventeen years, not on the day preceding the anniversary of his birth, but on the actual anniversary of the day of his birth.

10. In Section 4 of the Indian Majority Act, 1875, it has been expressly provided that in computing the age of any person, the day on which he was born is to be included as a whole day and that he shall be deemed to have attained majority at the beginning of the 21st anniversary or the 18th anniversary, as the case may be, of that day.

11. But in the absence of any such express provision, we think, it is well settled that any specified age in law has to be computed as having been attained or completed on the day preceding the anniversary of the birth day, that is, the day preceding the day of the calendar corresponding to the day of birth of the person.

12. Mr. E. S. Venkataramiah sought to make a distinction between the words 'attained'

¹(1930) 1 K B 741

²(1918) 1 Ch 263

and 'completed' and submitted that even if a person can be said to have attained a specified age on the day previous to the anniversary of his birthday, he cannot be said to have completed that specified age on that day. As the law does not take cognizance of part of a day but treats it as a full day, we think there is no distinction in substance between attaining and completing a specified age.

13. Hence the petitioner who was born on the 2nd October 1950 must be regarded as completing 16 years of age on the 1st October 1966.

14. In the result, this petition is allowed. We are informed that as a result of the interim order made by this court, the petitioner who has secured sufficiently high marks, has been admitted to the Pre-professional Course in Medicine. Hence all that we need direct in this petition is that the petitioner's admission to the said course shall not be disturbed on the ground of minimum age. A Writ will issue accordingly. There will be no order as to costs.

Petition allowed.