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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1236/2002

New Delhi, this the 19th day of May, 2003

Hon'ble Sh. Shanker Raju, Member (J)

Hari Prakash Neelam
S/o Sh. Khem chand Neelam
R/o H.No.E-321, Gali No.2
J.J.Colony, Nangloi
New Delhi.

...Applicant

(By Advocate Sh. U.Srivastava)

V E R S U S

Union of India through

1. The Secretary
Ministry of Defence, South Block
New Delhi.
2. The Chief of the Army Staff
Army Headquarters, South Block
New Delhi.
3. The Commandant
Para Bde, O.F.P., 50 (1)
C/o 56 APO
4. The Commandant
510, Army Base Workshop
Meerut Cantt, Meerut (UP).

...Respondents

(By Advocate Sh. Madhav Panikar)

O R D E R (ORAL)

By Shri Shanker Raju,

Applicant through this OA seeks appointment to the post of Mazdoor and further relaxation in upper age limit.

2. Applicant who had been engaged on casual basis with 50 (1) Para Brigade, OFP, his services were terminated, which he had assailed in OA 903/2001. By an order dated 24-9-2001, OA was disposed of with the directions to the respondents to consider re-engagement of the applicant in terms of DOPT OM dated 10-9-93 on availability of work. As there was no vacancy in the Unit, by an order dated 2-11-2001, claim of the applicant was rejected.

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3. By an advertisement dated 20-11-2001 issued by 510 Army Base Workshop regarding appointment of 30 Mazdoors. Applicant had applied giving his address at Agra, filled up the application form. As he has not been called, present OA has been filed.

4. By an order dated 16-5-2002 as an interim measure, respondents have been directed to consider the candidature of the applicant provisionally for regularisation. However, despite call letter being sent to the applicant at his available address at Agra as well as the application form, he has not been responded to. With the result, the selection process has been completed and report of verification of character and antecedents of selected candidates has been requisitioned.

5. Heard Sh. U.Srivastava, ld. counsel for the applicant. It is the contention of the applicant that being a reserved category candidate (SC), he is entitled for 5 years relaxation as per the Notification. Neither the candidature of the applicant was considered nor he was accorded relaxation.

6. However, ld. counsel of the respondents Sh. Madhav Panikar stated that in the earlier OA, respondent No.4 i.e. 510, Army Base Workshop has not been made party from where the Notification has been issued. In so far as direct recruitment is concerned, though the applicant in the wake of earlier decision cannot seek regularisation under the DOPT Scheme of 10-9-93 as both the Units are different having different appointing authorities yet to comply with the directions of this Court dated 16-5-2002. Call

letter has been sent on the available address of the applicant to appear in the trade test on 16-6-2002 against Roll No. 3644. As nothing has been heard and his application was not received, selection process has been completed and Mazdoors are being appointed.

7. It is further contended that regularisation is available to the applicant in Para Brigade OFP 50 (1) and cannot be claimed with respondent No.4 with whom the applicant had never worked on casual basis.

8. I have carefully considered the rival contentions of the parties and perused the material on record.

9. It is not disputed that earlier being aggrieved by his termination from Para Brigade OFP 50 (1) applicant filed OA where the directions have been issued to consider his engagement. In absence of any vacancy, the same was not found feasible. However, in the wake of Notification dated 20-11-2001 issued by 510 Army Base Workshop, applicant who had applied, cannot seek regularisation, as the Notification pertains to direct recruitment and regularisation is to be done as per the DOPT Scheme of 10-9-93 on the basis of having acquired temporary status and to the extent of vacancies in the ratio of 2:3. Regularisation cannot be considered as per the Instructions in a different Unit as the Para Brigade Unit as well as Army Base Workshop are two different units. Applicant cannot seek regularisation or age relaxation.

10. However, in compliance of the directions issued on 16-5-2002 by this Court, applicant was issued a call letter at the available address at Agra.

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This is reflected from his earlier OA and the representation forwarded to the respondents. Having not responded and the fact that selection has already been completed and appointments are made, the request of the applicant for age relaxation cannot be sustained in law.

11. In the result, for the forgoing reasons, OA is dismissed being bereft of merit. No costs.

S. Raju

(SHANKER RAJU)
MEMBER (J)

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