

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 2755/2002

New Delhi this the 14th day of January, 2003.

(F)

HON'BLE MR. GOVINDAN S. TAMPI, MEMBER (ADMNV)
HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

Sunil Dutt,
S/o Jagdish Parshad,
Working as Cleaner under
Junior Engineer-II (Elect.),
Western Railway,
Delhi Sarai Rohilla.

-Applicant

(By Advocate Shri Yogesh Sharma)

-Versus-

1. Union of India through
the General Manager,
Western Railway,
Churchgate, Bombay.
2. The Divisional Railway Manager,
Western Railway, Jaipur.
3. The Junior Engineer-II (Elect.),
Western Railway,
Delhi Sarai Rohilla.

-Respondents

(By Advocate Shri R.L. Dhawan)

Q.R.D.E.R

By Mr. Shanker Raju, Member (JL):

Applicant impugns the vires of paragraph-3 (III) of order dated 10.5.2002 by which the respondents have prescribed the maximum age limit for the post of Elect. Fitter (Artisan Staff) in the grade of Rs.3050-4590, against 25% promotion quota and also impugns order dated 30.9.2002, whereby the candidature of applicant has been rejected being over-aged.

2. Applicant has been working in Railway since 17.4.1980 as cleaner. As per para 159 of IREM Vol.I the next promotion for him is in the category of Skilled Artisan Grade-III in the scale of Rs.3050-4590. The last selection under this quota prescribed under paragraph 159 (ii) was conducted in 1994. For the vacancies pertaining

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to the year 1995-2000 respondents by letter dated 10.5.2002 invited applications from Group 'D' employees for filling up 43 posts of Elect. Fitter Grade-III under 25% quota.

3. In para 3 (iii) of the notification the maximum age limit for general candidate was 40 years and for SC/ST it is relaxable by five years. Applicant applied for the post on 25.5.2002 but his candidature was rejected by an order dated 13.9.2002 as he was found as a general candidate over and above 40 years of age and other persons have been called for written examination, giving rise to the present OA.

4. Shri Yogesh Sharma, learned counsel appearing for applicant contended that para 159 (ii) envisages the promotional quota amongst the semi-skilled and unskilled staff and for this quota there is no stipulation as to the age limit. By referring to Board's letter dated 17.5.1991 it is contended that the same applies to direct recruitment. It is stated that had the selection taken place earlier applicant would have been within the age limit as born on 1.1.1962. By interpreting para 159 contended that if para 159 (ii) refers to direct recruitment then there was no occasion for the respondents to have separately described it and this could have been included in the quota meant for selection. Further it is stated that even in direct recruitment quota serving employees who are apprentices and ITI qualified candidates could be considered on 25% quota is solely meant for semi-skilled and unskilled staff and if they fulfil

educational qualification the same would be treated as promotional quota for which there is no age limit prescribed.

5. Respondents, on the other hand, by referring to the decision of this Court in OA-356/2000, Sanjeev Kumar & Others v. Union of India & Others decided on 23.10.2002 contended that 25% quota referred to in para 159 (ii) has been held to be quota under direct recruitment and in that event as per Board's circular the notification issued prescribing age limit cannot be found fault with. Moreover, it is stated that the quota referred to in 159 (ii) ibid is a talented/intermediate quota for which the selection is to be held and has an element of direct recruitment whereas the promotion quota is referred to under para 159 (ii) to the extent of 50% where there is no stipulation of age limit.

6. Shri R.L. Dhawan, learned counsel for respondents contended that applicant would be considered irrespective of his age when the respondents fill up 50% quota meant for vacancies in promotional quota for Artisan Grade III. As applicant does not fulfil the minimum qualification of age his candidature has been rightly rejected.

7. We have carefully considered the rival contentions of the parties and perused the material on record. In Sanjeev Kumar's case this court has held as follows:

"16. We also find from para 159 (2) that for promotee quota of 50% there is no provision of imparting training and on selection they are to be assigned seniority from the date they put to work on a working post. As per para 159 (3) for a direct recruit in the skilled artisan grade II a training of six months is prescribed even though the candidate possesses as ITI certificate. In our considered view, the quota of 25% amongst the semi skilled and unskilled class IV post called the intermediate quota is in fact part of the direct recruitment quota as prescribed under Railway Board's letter dated 24.2.79 and those who have been empanelled for skilled grade III under this quota are required to undergo training. This has been reflected from Board's letter dated 24.2.79."

8. The contention of applicant that as per para 159 (2) the quota is to be treated as promotional, cannot be countenanced, as this quota is meant for serving semi-skilled and unskilled staff having requisite educational qualification and is subjected to a selection which has an element of direct recruitment. The aforesaid quota is to be treated as direct recruitment quota and as per the age prescribed under para 159 (2) for direct recruitment it is maximum upto 25 years and relaxable as per Board's letter upto 40 years in case of general candidates and 45 years in the case of SC/ST.

9. The further contention that had the selection been held earlier from 1994, applicant would have been eligible, cannot be countenanced, as the rules in vague, when the selection has been held, are to be applied. However, having regard to the decision of this Bench where the aforesaid quota has been held to be forming part of direct recruitment quota the circulars of the Railway Board is applicable and the same is incorporated in the

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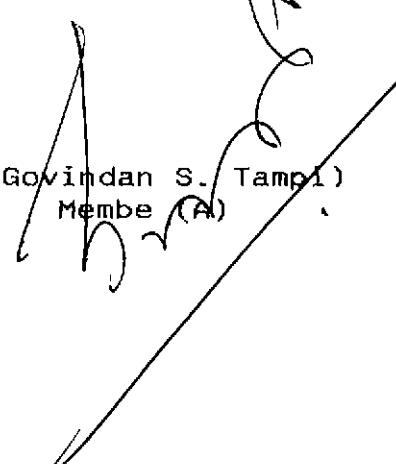
notification, which cannot be found fault with. We respectfully agree with the ratio arrived at by this Bench in Sanjeev Kumar's case (supra).

10. In the result, we do not find any infirmity in the rejection of the candidature of applicant who was not eligible as per the notification. However, as per respondents applicant is still eligible to apply under 50% promotion quota under paragraph 159 (1) (iii) of IREM Volume-I. With this observation, we do not find any merit in the OA, which is accordingly dismissed. No costs.


(Shanker Raju)

Member (J)

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(Govindan S. Tampli)

Member (A)