

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.A./~~XXXX~~ No 1040/1998

Decided on: 14. 10. 98

Shri Uma Kant Mishra ..Applicant(s)

(By Shri P.M. Ahlawat Advocate)

Versus

U.O.I. & Others Respondent(s)

(By Shri V.S.R. Krishna Advocate)

CORAM:

THE HON'BLE ~~SHRI~~ MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

THE HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)

1. Whether to be referred to the Reporter or *yes* not?
2. Whether to be circulated to the other Benches *NO* of the Tribunal?

✓
(K. MUTHUKUMAR)
MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 1040 of 1998

New Delhi this the 14th day of October, 1998

(a)

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)
HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Shri Uma Kant Mishra
S/o Shri Ram Bharose Mishra
C/o Capt. V.D. Tripathi,
R/o RZ-D-65 Gali No.4, Mahabir Enclave,
Palam,
Delhi-110 045. Applicant

By Advocate Shri P.M. Ahlawat.

Versus

Union of India through

1. The Secretary to the Govt. of India,
Department of Defence Production,
Ministry of Defence,
South Block,
New Delhi.
2. The Director General,
Ordnance Factory Board,
Ministry of Defence,
Ayudh Bhawan, 10-A, Auckland Road,
Calcutta-700 001.
3. The General Manager,
Field Gun Factory,
Kalpi Road,
Kanpur (UP).
4. The General Manager,
Small Arms Factory,
Kalpi Road, Kanpur (UP). Respondents

By Advocate Shri V.S.R. Krishna.

ORDER

Hon'ble Mr. K. Muthukumar, Member (A)

Applicant, who completed the course of a Machinist Trade in Semi-Skilled category under the Apprenticeship Act during 1980-83, is aggrieved that he was not considered for the post of Machinist in any of the factories of respondent No. 3 and 4 despite his application and have not even considered his case even in the recent notified recruitment in April, 1998. He alleges, that respondents have recruited

(10)

Semi-Skilled workmen, who were his junior batch apprentices, but have not considered his case, although he was informed at one time that due to non-availability of vacancy and ban on recruitment, his application could not be entertained and that he would be considered when the ban was relaxed. He contends that the respondents recruited 250 candidates upto 6th October, 1991 and later about 60 candidates in 1995, but his repeated applications were not considered. He has prayed for a direction to the respondents to consider his case for appointment in Semi-Skilled category.

2. Respondents in their counter-reply have averred that the applicant's name had been considered for the recruitment held in June, 1998, but was found to be over-aged even after giving relaxatiion as per the direction of Hon'ble Supreme Court in UPSRTC and Others VS. U.P. Parivahan Nigam Shri Shishukhs Berozgar Sangh and Others, AIR 1995 SC 115. In the case of applicant's grade, the respondents contend that Recruitment Rules provide for appointment of 30 years and the applicant, even after relaxing the period of his training, was over-aged for this recruitment as his date of birth was 15.8.1961.

3. We have heard the counsel for the parties and perused the record.

4. According to Recruitment Rules, (Annexure CA-2), the age limit for the Trade of Machinist in Semi-Skilled category is 30 years. Even after allowing the period of

training for purposes of age relaxation, the applicant was over-aged for the recruitment notified in April, 1998. The contention of the respondents, therefore, is tenable. The applicant alleges that even for earlier recruitment upto 1991, and later in 1995, he was not considered. Applicant could have sought legal remedy at the relevant time. He has slept over his right, and by the ratio of the decision in **Rattam Chandra Sammanta Vs. U.O.I., JT 1993(3) SC 418**, the applicant cannot agitate this matter now. We have seen the judgment in **R. Harish and 27 Others Vs. Debjit Chatterjee and 10 Others, RA Nos. 78/96 and 79/96** in OA 800/95 and OA 82/1996 relied upon by the applicant. The decision in this case and the direction contained therein are entirely on different facts and circumstances. This case was about procedure to be adopted in the light of the Regulation 16 of U.P. Jal Nigam Service of Engineers (Jal Nigam Branch) Regulation 1977. This decision, is, therefore, of no avail here. We have also seen the decision of the Hon'ble Supreme Court in **Paschambanga Prathamik Sikshak Sikshan Prapts Bakar O. Sikshak Samiti VS. President, West Bengal School Council (1996) 7 SCC 333** cited by the applicant in his rejoinder affidavit. The facts and circumstances are not paraeimateria here.

5. In the light of the above facts, we are of the considered view that this application is devoid of merit and is accordingly rejected. No costs.


(K. MUTHUKUMAR)
MEMBER (A)


(MRS. LAKSHMI SWAMINATHAN)
MEMBER (J)

Rakesh