

Central Administrative Tribunal  
Princial Bench

O.A. No. 1301 of 1998

New Delhi, dated this the 14th January, 1999

Hon'ble Mr. S.R. Adige, Vice Chairman (A)

Shri Nand Lal,  
S/o Shri Thakar Dass,  
R/o F-52, DDA Flat,  
New Ranjit Nagar,  
New Delhi-110008.

... Applicant

(By Advocate: Shri C.B. Pillai)

Versus

Union of India through

1. Secretary to the Govt. of  
India,  
Dept. of Animal Husbandry & Dairying,  
Ministry of Agirculture,  
Krishi Bhawan, New Delhi.

2. General Manager,  
Delhi Milk Scheme,  
West Patel Nagar,  
New Delhi-110008.

... Respondents

(By Advocate: Shri G. Giri)

O R D E R (Oral)

By Hon'ble Mr. S.R. Adige, Vice Chairman (A)

Applicant seeks a direction to have been treated him as regular confirmed employee and finalise his pension case accordingly and pay him regular pension and other retiral dues such as Gratuity, commuted value of pension etc. with interest @ 12% p.a. on the arrears.

2. I have heard applicant's counsel Shri C.B.Pillai and Respondents' counsel Shri Giri.

3. The stand of the respondents is that applicant was appointed to the post of Fitter-Auto Electrician on 4.8.69 as a direct recruit on ad hoc

✓ basis in accordance with provision of the proposed Recruitment Rules, 1966. At the time of his appointment he was 32 years of age (Date of birth 15.10.37) and was within the age limit as proposed in the proposed Recruitment Rules for the post i.e. 18-35 and was appointed in the anticipation of the approval of the Government for age limit 18-35 years, but the age limit for Direct Recruitment notified by the Govt. in the notified Recruitment rules was only 18-25 years and as such he was over-aged at the time of appointment. Respondents state that it is for this reason that applicant could not be regularised. They however state that applicant's case for age relaxation was considered and his name was sent, but the same was not acceded to. As applicant was not a regular employee but only an employee appointed on ad hoc basis, he is not entitled to grant of pension or other retiral benefits.

4. Respondents themselves admit that at the time of applicant's appointment he was within the age limit as was proposed in the Recruitment Rules under consideration. It is not applicant's fault that respondents subsequently lowered the age limit to 18-25 years, resulting in his becoming over age. It is not Respondents' case that applicant obtained his appointment by any under

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means,  
 hand~~ed~~ and it is also not denied that applicant had  
 put in service continuously w.e.f. 4.8.69 till he  
 retired on superannuation on 31.10.97.

5. Under somewhat similar circumstances the Hon'ble Supreme Court in B.G. Kajrekar Vs. Administrator, Dadra, Nagar and Haveli & Others SC SLJ 1993 (1) Page 12 had held that denial of confirmation to that applicant who had put in about 23 years of continuous service before retirement, on the ground that there were no Recruitment rules for the said post was arbitrary, and a direction was issued to treat that applicant as confirmed employee and give him pension and other benefits.

6. Shri Giri does not seriously dispute that the <sup>ratio of the</sup> aforesaid ruling in Kajrekar's case (Supra) is ~~not~~ applicable in the present case also.

7. In the light of what has been stated above and in the facts and circumstances of this particular case which should not be treated as a precedent, this O.A. is disposed of with a

direction to respondents to treat the applicant as a confirmed employee and give him pension and other admissible retiral benefits w.e.f. the date of his retirement on superannuation on 31.10.97. The prayer for interest is rejected as it is not the case that there was deliberate or wanton delay on the part of respondents. No costs.

*Anjdiq.*  
(S.R. ADIGE)  
VICE CHAIRMAN (A)

/GK/