

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.550/98

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 4th day of September, 1998

Bhopal Singh
s/o Late Keshav Singh
aged about 29 years
r/o RZH-328-A, Raj Nagar-II
Palam Colony
New Delhi - 45.

... Applicant

(By Shri A.K.Trivedi, Advocate)

Vs.

1. Union of India through
its Secretary
Ministry of Defence
South Block
New Delhi.

2. Commander Works Engineer
(Air Force) Palam,
Delhi
Delhi Cantt-110 010.

... Respondents

(By Shri R.P.Agarwal, Advocate)

O R D E R (Oral)

The applicant worked as casual labour with the respondents for a period of 118 days. After his services were terminated, the OA No.1573/93 was filed by him which was disposed of by an order dated 5.1.1994. The operative part of the order reads as follows:

"Para 6: Regarding the judgment of Hem Chander Vs. Union of India, filed by the learned counsel for the applicant, it does not lay down any ratio. The judgment only directs the respondents to consider the applicant (Hem Chander) along with others and if any person in view of the communication dated 23.5.1992 has been regularised he can also be considered for such regularisation. What prevailed with the learned Bench to make such observation is not evident in the judgment itself. Thus the judgment cannot have a binding precedent. However, considering the facts and circumstances of the case, the applicant has a right to be considered along with the freshers sponsored by the Employment Exchange or otherwise seeking employment with the respondents and in the event he being found overaged, a relaxation has to be given to him upto the period he has already put in with the respondents.

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Para 7: The respondents should consider the engagement of the applicant anytime when the necessity arises and the applicant shall also remain vigilant for applying for the job of a labour or any other Group IV post for which he is eligible and the respondents will intimate him the outcome for such regular appointment."

2. The applicant submits that though the respondents had vacancies of Group-IV staff and though he applied for the same and the directions were also given by this Tribunal in CP No.147/98 he was considered but he has not been appointed. He has come before the Tribunal seeking a direction that the impugned order, Annexure A1, by which they had asked him to approach the Sub Regional Employment Exchange be quashed and the respondents be directed to consider his case for appointment in Group-IV post.

3. The respondents in reply have stated that the applicant's case was duly considered but it was found even after giving him relaxation to the extent of his engagement with the respondents that he was over aged being 29 years as the maximum age prescribed in the statutory rules was 25 years. As such the applicant could not be selected for employment.

4. I have heard the counsel. The learned counsel for the applicant submits that in case of casual labour who have already rendered some period of engagement the relevant date for determining their age is the date of initial appointment with the respondents. The applicant had been initially engaged in 1986 and on that date he was admittedly within the prescribod age

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limit of 18-25 years. The learned counsel also cites a few judgments to support his arguments regarding the age relaxation given to casual labour.

5. Having considered the matter carefully, I find that the applicant is not entitled to the relief sought for. It is an admitted position that the applicant had approached the respondents for consideration of his case in terms of the directions given by the Tribunal in OA No.1527/93. As would be seen in para 6 of that order which has been reproduced above, the direction was that the "relaxation has to be given him upto the period he has already put in with the respondents". Since the respondents have considered the case of the applicant strictly in terms of the directions of this Tribunal, the relaxation could be granted to him only to the extent of the orders of this Tribunal. Since it has been found that after giving him such relaxation he was still overaged, obviously he could not ^{have} _{not} been considered for the post in question. The learned counsel for the applicant has argued further that in the Scheme for grant of temporary status and regularisation there is no age prescribed for casual labour. The applicant is right but the provisions of the Scheme do not apply to the applicant herein. Under the scheme the casual labour has to render a minimum period of service which is (206 days in an office having 5 days week and 240 days in an office having 6 days week) to be eligible for grant of temporary status whereafter the casual labour can be considered for regularisation. The applicant cannot claim on one side the benefit of the order of this

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Tribunal in OA No.1537/93 and on the other hand, the benefit of the Scheme of grant of temporary status and regularisation to the casual labour.

7. In the light of the above discussion, the OA is dismissed. No costs.

R.K. Ahdooja
(R.K. Ahdooja)
Member(A)

/rao/