

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 211/96

New Delhi this the 17th Day of March 1996

HON'BLE SHRI R.K. AHOOJA, MEMBER (A)
HON'BLE SHRI S.L. JAIN, MEMBER (J)

Shri P. Gopalakrishnan,
J-786 Mandir Marg,
New Delhi - 110 001.

Applicant

By applicant in person

Versus

1. Union of India through
Staff Selection Commission,
Department of Personnel & Training,
Ministry of Personnel, Public Grievances
and Pensions,
Block No. 12, CGO Complex,
Lodi Road,
New Delhi - 110 003.

2. Government of India,
Department of Personnel & Training,
Staff Selection Commission,
Southern Region, Madras,
MVK Sampath Building, 2nd Floor,
College Road,
Madras - 600 006

Respondents

By Advocate: Shri K.R. Sachdeva

O R D E R

HON'BLE SHRI R.K. AHOOJA, MEMBER (A)

The applicant was appointed as a Lower Division Clerk in the Armed Forces Headquarters, Ministry of Defence. In 1991 he appeared for recruitment in the examination held by the Staff Selection Commission for the post of Inspector of Central Excise and Income Tax as also Grade II of Delhi Administration Subordinate Services (hereinafter referred to as "DASS" for short). On the basis of his selection, he was appointed to Grade II of DASS with effect from 13.8.1993. However, he continued to retain his lien on the post of Lower Division Clerk in Armed Forces

Headquarters, till 12.8.1996. The applicant again applied for the post of Inspector of Central Excise of Income Tax for the examination conducted by the Staff Selection Commission in 1993. While doing so he sought age relaxation as per Clause 4(e) of the advertisement issued by the Staff Selection Commission published in the Employment News of 10-16 July 1993. The last date of submission of the application was 9.8.1993 on which date the applicant was still working as Lower Division Clerk in the Ministry of Defence. The applicant was allowed to compete and on the basis of the result of the examination declared he was asked to send certain documents including those required in support of his claim for age relaxation as a departmental candidate. The applicant is now aggrieved by the impugned letter dated 14.6.1995 whereby his case was for age relaxation has been rejected and his candidature cancelled. He filed representations to the authorities on 12.7.1995, 4.9.1995, 28.8.1995 pointing out that he was eligible for age relaxation both as Lower Division Clerk as well as a member of the DASS where he is working in the Sales Tax Department. These representations were also rejected by the Respondent's letter dated 12.5.1995. Claiming that persons similarly situated as him have in the past been granted age relaxation, he has now approached the Tribunal challenging the orders of rejection of his candidature as well as the rejection of his representations.

DR

12

2. The respondents have contested the relief sought for by the applicant.

3. We have heard the counsel. The relevant provision for age relaxation in para 4(e) of the advertisement of the SSC reads as follows:

"(e) Upper age limit is relaxable upto the age of 40 years (45 years for Scheduled Caste/Scheduled Tribe candidates) to the departmental candidates who have rendered not less than 3 years continuous and regular service as on 9.8.1993 provided they are working in posts which are in the same line or allied cadres and where a relaxationship could be established that the service rendered in the department will be useful for the efficient discharge of duties of posts for which the recruitment is being made by this examination in terms of DP&AR's O.M. No. 4/4/74-Estt(D) dated 20.7.76 and DP&T's O.M. No. 35014/4/79-Estt(D) dated 24.10.1985 O.M. No. 15024/3/87-Estt(D) dated 7.10.1987 and O.M. No. 15012/1/88-Estt(D) dated 20.5.1988".

4. The learned counsel for the applicant argued that the respondents have been interpreting the above provision to include the persons working in the clerical grades in various Offices of Government of India and also those in Grade II of DASS. He submits that in 1995, the Chairman of the Staff Selection Commission had recorded a note that henceforth only those who are working in the Income Tax, Customs and Excise should be granted this age relaxation. The learned counsel submitted that such an interpretation even if valid could only have a prospective effect i.e. for examination conducted

Dr

after this policy decision of the Chairman of the Staff Selection Commission but this interpretation would not apply to the examination in question which was advertised much earlier in 1993. In this connection he relied on the orders of this Tribunal in O.A. No. 456/96 delivered on 28.5.1997 in the case of P.B. Narayanan Vs. Union of India & Ors. He submitted that the issue before the Tribunal was also whether the conditions applicable at the time of notification of the examination could be changed without any prior notice to the affected parties. The O.A. had been allowed and the Tribunal had directed that the applicant's candidature be accepted.

5. We have gone through this order but find that the facts therein are distinguishable from those in the case before us. The applicant in P.V. Narayanan Vs. Union of India & Ors. (Supra) was a Lower Division Clerk in the Railway Board Secretariat Service and his plea was that LDC/UDCs of Railway Board were earlier made ^{eligible} in the years 1990 and 1991-92. On the other hand, the applicant before us was at the relevant time a Lower Division Clerk in the Armed Forces Headquarters. The applicant cannot claim that the work in the Armed Force Headquarters in the Ministry of Defence is of the same nature as that in the Railway Board which is a Civil department. Merely because the LDCs in one wing of the Government were considered to be doing work which had some nexus with the work in the posts which had been advertised does not mean that

LDCs in any of the department of the Government would have also the same desirable experience. We therefore do not find that the decision of this Tribunal in P.V. Narayanan Vs. Union of India & Ors. (Supra) can be of any help to the applicant

6. In so far as the applicant's claim that he is also eligible on the basis of his appointment to Grade II of DASS is concerned, he himself states that his appointment to DASS is after the last date of submission of applications for the examination in question. The experience acquired by him in a post to which he was appointed later cannot be relevant for the purpose of age relaxation.

7. We also find that as submitted by the learned counsel for the respondents similar issues were raised before the Madras Bench of this Tribunal in O.As. No. 1075, 1076, 1099, 1120 and 1124/95 which were decided by a common order dated 5.9.1996. The applicants therein were working as Sr. Accountants and Sr. Auditors in the Office of the Accountant General while one applicant was working as Lower Division Clerk in the same office. Respondents had relied on the guidelines issued by the Chairman of the Staff Selection Commission in 1995. The Tribunal concluded that the Staff Selection Commission is vested with the authority to take a view on the nexus principle and this had been done by the Chairman vide his note dated 23.5.1995 after dealing with the issue exhaustively. The Tribunal noted that the contents of such examinations change from year to year and therefore

-6-

20

it is open to the respondents to take a fresh decision in respect of each examination. A similar view was taken by this bench in O.A. No. 2102/94 decided on 16.4.1986. In this O.A. as well as in another O.A. No. 456/95 decided on 12.1.1996 by a bench of which one of us (Shri R.K. Ahooja) was also a member, the Tribunal decided that the mere fact that the applicant had been allowed to take the examination did not act as an estoppel for rejecting the candidature at a later stage.

8. We are in respectful agreement with the aforesaid orders of the Madras Bench of this Tribunal and of the decision in O.A. No. 456/96 of the Principal Bench. We are also of the view that it is the prerogative of the Staff Selection Commission to decide whether the applicant comes within the eligibility clause of para 4(e) of the advertisement with regard to age relaxation. We find no allegation of discrimination that the respondents have allowed another LDC of the Armed Force Headquarters but have denied this concession to the applicant. We therefore find no ground to interfere.

In the light of the above, the O.A. is dismissed.

S.L. Jain
(S.L. Jain)
Member (J)

R.K. Ahooja
(R.K. Ahooja)
Member (A)

Mittal