

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

18

C.A./T.A. No. 2033/94 /19 Decided on: 1.4.97

R.K. Kaushik

..... APPLICANT(S)

(By Shri Jog Singh Advocate)

VERSUS

Staff Selection Commission
& Ors.

..... RESPONDENTS

(By Shri Vijay Mehta Advocate)

CO RAM

THE HON'BLE SHRI S.R. ADIGE, MEMBER (A)

THE HON'BLE ~~SHRI S.R. ADIGE~~ / DR. A. VEDAVALLI, MEMBER (J)

1. To be referred to the Reporter or not? Yes
2. Whether to be circulated to other Benches of the Tribunal? No

S.R. Adige
(S.R. ADIGE)
Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

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O.A. No. 2033 of 1994

New Delhi, dated this the 1st April, 1997

HON'BLE MR. S.R. ADIGE, MEMBER (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri R.K. Kaushik,
Flat No.319 (SFS) Flats,
Pocket-5, Sector 8,
Rohini,
New Delhi-110085.

... APPLICANT

By Advocate: Shri Jog Singh

VERSUS

1. Staff Selection Commission,
through the Secretary,
Block No.12, CGO Complex,
Lodhi Road,
New Delhi.
2. Secretary,
Dept. of Personnel & Training,
Ministry of Personnel, Public Grievances
and Pensions,
North Block,
New Delhi.
3. Secretary,
Ministry of Defence,
South Block,
New Delhi.
4. OIC Record,
EME, Secunderabad,
Andhra Pradesh
5. Lt. Col.
Second-in-Command,
611-EME,
C/o 56, APO.

.... RESPONDENTS

By Advocate: Shri Vijay Mehta)

J U D G M E N T

BY HON'BLE MR. S.R. ADIGE, MEMBER (A)

Heard.

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2. Admittedly, pursuant to the SSC Notice for Inspectors of Central Excise/ Income Tax etc. Examination, 1990 published on 21.7.90 (Ann. A-7), applicant submitted his application form on 11.8.90 claiming to be an Ex-Serviceman.

3. Note III below Para 4(b) of the Notice provided that for securing reservation as an Ex-Serviceman, the person concerned must have already acquired at the relevant time of submitting his application, the status of Ex-Serviceman, or could establish entitlement by documentary evidence from the competent authority that he would be released/discharged from the Armed Forces within one year of the date of submission of his application, on completion of his assignment. Applicant was permitted to appear in the written examination held on 21.10.90 on purely provisional basis, subject to his eligibility being verified after the examination, but upon being called for personality test on 15.7.91 he was informed that he had not been found eligible because his date of discharge was 30.11.91 while the date of his application was 11.8.90, and hence this period exceeded the one year limit as prescribed in Exam. notice.

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4. We have seen the certificate dated 10.8.90 issued by the Second-in-Command of applicant's unit permitting him to apply as a candidate for the examination and certifying that he would be released from service within the stipulated period of one year, if selected. We have also seen the applicant's certificate of service (Ann. A-17) from which it is clear that the applicant was discharged by order dated 15.4.91 although that order was to take effect from 30.11.91.

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5. Despite the Defence Ministry and its employees being impleaded through an amended Memo of parties, and notice being served upon them, none appeared on their behalf to explain why that discharge order was to take effect from 30.11.91 and counsel for the other respondents also could not throw light on this point. However, there is no doubt that applicant's actual date of discharge was 30.11.91.

6. Applicant has contended that the advertisement notice merely required documentary evidence that he would be released within the stipulated period of one year, and this requirement was fulfilled by annexing the certificate dated 10.8.90.

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He has also contended that if he had only known that his candidature at the interview stage would be rejected on this particular ground, he would have taken suitable steps to ensure that his date of discharge fell within one year of his date of application i.e. 11.8.90.

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7. We have given the matter our careful consideration. Note III makes it clear that to avail of the concession extended to ex-servicemen the candidate must, on the date of submission /of his application, already have acquired the status of an ex-serviceman, or produce documentary evidence that he would be released/discharged within one year of the date of submission of his application form, on completion of his assignment. Applicant cannot claim to have been unaware of this stipulation as it was a part of the Exam. Notice itself. Applicant submitted his application form for the exam. on 11.9.90, and in terms of Note III he could be treated as a valid ex-serviceman only if he were discharged on or before 10.9.91. When he appeared for the personality test on 15.7.91 and was informed that he was not eligible as his discharge took effect from 30.11.91, he still had the period between 15.7.91 and 10.9.91, that is nearly two months, to get his date of discharge antedated if the same were permissible under rules, to fall within the one year limit and thus qualify as an

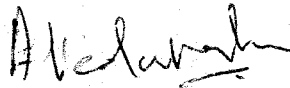
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ex-serviceman, and then approach the authorities again, but evidently applicant did not do so.

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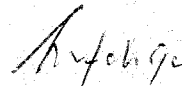
8. That being the position, respondents' cannot be said to have acted illegally or arbitrarily in holding applicant ineligible for the 1990 Exam. in terms of Note III of the Exam. Notice. We therefore find ourselves unable to grant the relief prayed for by him.

9. The O.A. is dismissed. No costs.



(DR. A. VEDAVALLI)
Member (J)

/GK/



(S.R. ADIGE)
Member (A)