

(2)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA-830/86

Date of decision: 23.10.1992

Shri Suresh Kumar Chopra Applicant

Versus

Union of India & Anr. Respondents

For the Applicant None

For the Respondents None.

CORAM:

The Hon'ble Mr.P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr.B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*

2. To be referred to the Reporters or not? *Yes*

JUDGMENT

(of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice Chairman(J))

We have gone through the records of the case carefully. This application had been dismissed for default on 6.7.1992 as none had appeared for both the parties and the case had been listed in the first 15 cases peremptorily for final hearing. Thereafter, the learned counsel for the applicant moved MP-2161/92 praying for restoration of the main application and continuation of the interim order

passed in this case. The M.P. was allowed after hearing him on 24.7.1992. Thereafter, the case was listed for further directions on 14.8.1992, when the learned counsel for the applicant was present and the case was listed for final disposal not till 28.8.1992. Thereafter, the case had appeared on the list of ready cases for final hearing and it had been included in the list of 15 cases peremptorily fixed for final hearing. On 18.9.1992, when the case was called, none appeared for both the parties.

2. The relief sought by the applicant in this application is that the impugned order dated 5.9.1986 be set aside and quashed. The impugned order has been issued by the respondents under Rule 5(1) of the C.C.S. (Temporary Service) Rules, 1965. According to the impugned order, the services of the applicant were to be terminated with effect from the date of the expiry of one month from 5.9.1986.

3. The facts of the case in brief are as follows. The applicant applied for the post of Storekeeper in the office of the respondents. His name had been registered with the Employment Exchange. He was called for interview and written test and was declared selected for appointment. However, on 9.7.1986, the respondents cancelled their earlier letter dated 15.11.1985, whereby he had been declared selected for appointment to the post of Storekeeper and had been asked to undergo medical examination. The

(8)

applicant submitted a representation on 23.7.1986 wherein he stated that for no fault of his, he had become over-aged by the time the respondents completed the necessary formalities for appointment. Thereafter, the respondents asked the applicant to report for duty along with the character certificate and educational qualification certificate. They also cancelled their earlier order dated 9.7.1986.

4. Without giving any further reasons, the respondents have passed the impugned order of termination of his services on 5.9.1986. The applicant had joined duty on 9.8.1986.

5. The version of the respondents in their counter-affidavit is that the employment of the applicant was considered irregular and he had worked for a short period.

6. After carefully considering the matter, we are of the opinion that the impugned order of termination of services is not legally sustainable as there is nothing on record to indicate that it had been passed due to the general unsuitability of the applicant to hold the post of Storekeeper. In case, the applicant was within the prescribed age limit for the post of Storekeeper on the last date of the receipt of the application for the said post, the termination of his services after due selection but on the ground that he had become over-aged by the time the order of appointment was issued, is not legally tenable.

In our opinion, the crucial date for computing the prescribed age limit, is the last date of the receipt of the application in the office of the respondents. The time taken by them in processing the application and in issuing the order of appointment, cannot be taken into account. Accordingly, we set aside the impugned order dated 5.9.1986 and direct that he shall be retained in service in case he was within the prescribed age-limit as on the last date of the receipt of the applications for the post of Storekeeper. The respondents shall issue necessary formal orders expeditiously and preferably within a period of three months from the date of receipt of this order. There will be no order as to costs. The interim order already passed in this case is hereby made absolute.


(B.N. DHUNDIYAL)
MEMBER (A)

23.10.1992


(P.K. KARTHA)
VICE CHAIRMAN (J)

23.10.1992