

In the Central Administrative Tribunal  
Principal Bench: New Delhi

OA No.665/1987

Date of decision: 22.09.1992.

Shri Avish Kumar

...Petitioner

Versus

Union of India through the Secretary,  
Ministry of Irrigation, Sharam Shakti  
Bhawan, New Delhi & Others.

...Respondents

Coram:-

The Hon'ble Mr. Justice V.S. Malimath, Chairman  
The Hon'ble Mr. I.K. Rasgotra, Administrative Member

For the petitioner

Shri Sanjay Kumar, proxy  
counsel for Shri E.X. Joseph,  
counsel for the petitioner.

For the respondents

Shri K.C. Mittal, counsel.

Judgement(Oral)

(Hon'ble Mr. Justice V.S. Malimath, Chairman)

The petitioner says that he started his career as Tracer and was in due course promoted as Junior Draftsman in 1986. He aspires to become Junior Engineer. He says that he acquired the educational qualification required for that post by appearing for the examination in May, 1982, the results of which were announced in August, 1982, declaring him as having passed. On his own showing, therefore, till August 1982 he was not eligible for the post of Junior Engineer. There was a ban on recruitment, as a result of which no recruitment took place till July, 1985. It is the petitioner's case that in the mean-while he became over aged and, therefore, his case could not be considered for the post of Junior Engineer. It is in this background

that the petitioner has approached this Tribunal for appropriate relief.

2. The recruitment to the posts of Junior Engineer which were formerly known as Supervisors is regulated by the rules framed by the President under Proviso to Article 309 of the Constitution called the Central Water Commission non-Ministerial post Group 'C' recruitment rules. Copy of the relevant portion of the rules has been produced as per Annexure A-1. The scheme of the rules shows that 95% of the posts are required to be filled up by direct recruitment and 5% by way of promotion. Though the petitioner claims that his case should be considered in the 5% quota meant for being filled up by promotion, it is obvious, he being not in the feeder category of Surveyer is not entitled to be considered in the promotional quota. So far as the direct recruitment quota of 95% is concerned, there is an age limit prescribed as 20-28 years. It further provides that in respect of departmental candidates working in the Central Water Commission and possessing the prescribed qualification the age limit is relaxable upto 35 years. The rule does not say that a different maximum age is prescribed for departmental candidates. What is prescribed is, so far as the departmental candidates are concerned, the age

in deserving candidates can be relaxed upto 35 years. The petitioner has built up his case on the assumption that higher age limit is prescribed for the departmental candidates. Obviously, when recruitment was made for the direct recruitment vacancies in 1985 he had crossed the prescribed age of 35 years. That because of the ban earlier recruitment could not take place, does not mean that after the ban was lifted, a person who was age barred on the relevant date is entitled to be considered for direct recruitment. As admittedly in the year 1985 the petitioner had crossed prescribed age limit of 35 years, it was not at all possible to render the petitioner <sup>eligible</sup> even by exercising the power of relaxation. That being the position, the question of age relaxation really does not arise.

3. It is surprising that the petitioner has sought for striking down the provisions which provide for relaxation of the age limit upto 35 years in respect of the departmental candidates. If that is struck down the petitioner has to satisfy the age limit of benefit 28 years. We fail to see what he gets by seeking this relief. Hence we do not propose to examine this contention of the petitioner. The question of relaxation does not arise, as already stated, as by the time the posts were filled up, the petitioner had crossed

the age of 35 years. Looking at from any angle, we do not see any good ground to interfere. This petition fails and is dismissed. No costs.

  
(I.K. RASGOTRA)  
MEMBER(A)

  
(V.S. MALIMATH)  
CHAIRMAN

san.  
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