

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No.615/90

NEW DELHI THIS THE 19TH DAY OF AUGUST, 1994.

HON'BLE SHRI A.V. HARIDASAN, MEMBER (J)
HON'BLE SHRI B.K. SINGH, MEMBER (A)

Shri S. Sundara Raj,
S/o .. Sriranalu
R/o Block H, House No.110
Nanakpura,
New Delhi-11021.

...Applicant

By Advocate : Shri Vijay Metha

VERSUS

1. Union of India, through
Secretary,
Ministry of Personnel, Public Grievances
and Pensions,
Dept of Personell & Training,
North Block, New Delhi-1.
2. Staff Selection Commission through
its Chairman,
Block No.12
C.G.O. Complex, Lodi Road,
New Delhi-110003. ...Respondents

By Advocate : None

JUDGEMENT (ORAL)

Hon'ble Shri A.V. Haridasan, Member (J)

The constitutional validity of Rule 4 (j) of Inspectors of Central Excise, Income Tax etc rules is under challenge as being violative of article 14 and 16 of the Constitution. The applicant while working as Lower Division Clerk (L.D.C. for short) in Armed Forces Headquarters, (A.F.H.Q. for short), New Delhi had applied for selection/appearing in examination/written test for the post of Inspectors of Central Excise, Income Tax, etc examination, 1989 notified by the Staff Selection Commission in Employment News dated 22nd April, 1989. The applicant had applied for the said post under age relaxation as per rule 4 (j) notification applicable to stenographers Grade 'D' of the CSCS and the CSSS Cadres. The applicant

had passed the said examination when he was 27 years of age as on the relevant date 1.08.89. According to the paragraph 4(a) of the application, the candidate should have been born not earlier than 2.08.64 and not later than 1.08.69 and should have been within the age of 18 to 25 years as on 1.08.89. The paragraph 4(a) of the aforesaid notification is reproduced as under :-

"Upper age limit is relaxable upto the age of 30 years (35 years for SCs/STs) for the posts of Inspectors of Income-Tax for the LDCs/UDCs/Stenographers Grade 'D' of the CSCS and the CSSS who have put in not less than two years continuous service as on 22.05.89."

A note below this it was stated ;

"While forwarding the application of departmental candidates seeking relaxation, the Competent Authority should satisfy itself that the candidate fulfils all the conditions of eligibility required and is eligible to appear in the examination under age relaxatiuon admissible to departmental candidates as per existing government orders."

Though, the applicant did not belong to CSCS/CSSS cadre his application was forwarded and he was allowed to participate in the written test. The applicant has passed t he written test. The applicant has passed the written test but at the time of personality test, he was asked whether he belonged to CSCS/CSSS cadre, who answered in the negative, his candidature was cancelled. It is under these circumstances that the the applicant has filed this application challenging vires of the rule 4(j) which grants age relaxation only to LDCs and stenographer of CSCS/CSSS while according to him the L.D.C.s of various departments

from the Government of India leading to a homogenous class. The applicant has alleged in the application, that he was recruited as L.D.C. pursuant to the examination held by the S.S.C. common to various services including AFHQ/CSSS and, therefore, the applicant claims that he belonged to the same class as LDCs of CSCS/CSSS and, that therefore, discrimination against the LDCs of AFHQ in denying the benefit of age relaxation is violative of article 14 and 16 of the Constitution of India.

2. The respondents in their letter have contended that the relaxation of the upper age limit in regard to the LDCs of CSCS/CSSS was granted by the Government as policy decision taking into account of the reciprocal arrangement between the departments and that though applicant's case regarding age relaxation was referred to the department of personnel on his making representation, the department of personnel, have not acceded to the acceptance of the applicant's candidature in accordance with the rules position.

3. The applicant in his rejoinder has contended that the case of the respondents that the benefit of age relaxation given to the LDCs of CSCS/CSSS was on the basis of reciprocal arrangement is not true ^{to} in fact and that the examination held in 1988 for recruitment to the post of Assistants Grade, benefit of age relaxation of upper age limit was granted to LDCs of all the departments and office of the Government of India.

4. We have heard Shri Vijay Metha learned counsel for the applicant. We did not have the benefit of

hearing the counsel for the respondents as none appeared. Shri Metha has with considerable tenacity argued that as the LDCs in A.F.H.Q. as well as LDCs OF CSCS/CSSS were recruited on the basis of a single recruitment test and as the recruitment qualifications remains the same, it is violative of the equality provisions enshrined in article 14 and 16 of the onstitution of India to bifurcate them into separate classes for granting benefit of age relaxation to one set but denying it to the other set. This argument of Mr Metha at the first flush appeared to be persuasive but on the close scrutiny it can be seen that the LDCs of A.F.H.Q are a separate class different from LDCs of CSCS and CSSS; because after the selection when the LDC recruited by the common examination are appointed to different services they form the members of different services governed by different set of rules of services for example LDCs of Railways will be governed by the rules applicable to the railways while LDCs of CSCS/CSSS will be governed by the rules applicable to CSCS/CSSS department. So also the LDCs of AFHQ will be governed by the rules applicable by AFHQ. So the basic requirement of homogeneity of class is missing. The government has after careful consideration framed recruitment rules with various conditions granting relaxation in respect of age, educational qualification etc in favour of different classes belonging to different feeder categories. The government in its wisdom has decided that the LDCs of CSCS/CSSS should be entitled to relaxation in age limit. Since the LDCs of AFHQ and LDCs of CSCS and CSSS cannot be considered as belonging to one homogenous class, but belong to

different class a different treatment is permissible without offending article 14 and 16 of the Constitution. Such a classification for a different treatment is saved as reasonable classification - Hence there is no merit in the challenge against the validity of the Rule 4(52) (5)

5. The learned counsel for the applicant argued that as a matter of fact, for the examination which was conducted next year, the government probably being alive to the injustice done to the LDCs of AFHQ and ^{have} extended benefit of age relaxation to LDCs in AFHQ also and, therefore, it has to be found that the impugned clause in the notification was unreasonable and should be declared null and void. We have considered this argument also. It is natural that the rules undergo change to meet the changing requirements of service and also on the basis of experience. It does not mean that the rules prior to the amendment were unreasonable or null and void for that reason. Therefore, we are not able to agree to this argument of the learned counsel for the applicant also.

6. In the light of the foregoing discussion finding no merit in the application we dismiss the ^{same} prayer leaving the parties to bear their own costs.


(B.K. SINGH)
MEMBER (A)


(A.V. HARIDASAN)
MEMBER (J)