

91

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA 2275/1991

New Delhi, this 27th day of February, 1996

Hon'ble Shri B.K. Singh, Member(A)
Hon'ble Dr. A. Vedavalli, Member(A)

Shri Prabhu Dayal
Lascar in 28 Wing, Air Force Station
Hindon (Ghaziabad) .. Applicant

By Shri D.S.Jagotra, Advocate

vs.

Union of India, through

1. The Chief of Air Staff, Air Hqrs.
Vayu Bhavan, New Delhi

2. AIR Officer Personnel
Air, Hqrs., Vayu Bhavan, New Delhi

3. Air Officer Commander-in-Chief
Western Air Command, IAF
Subroto Park, New Delhi

By Shri V.S.R.Krishna, Advocate

4. Shri Ram Pal Singh
s/o Shri Dharam Vir Singh
C-437, Chhajupur, Shahdara, Delhi-32 .. Respondents

By Shri J.P.S. Sarohi, Advocate(Intervenor)

ORDER(oral)

been

This application was filed against non-promotion of the applicant from Group D to C from the SC category in spite of the fact that he has put in more than 30 years of service. He has prayed for the following reliefs in this OA:

(a) The decision of the Selection Board held on 23.8.91 recommending the appointment of the candidates sponsored from Employment Exchange at Ghaziabad as Store Keeper and four Assistant Store Keepers be set aside; and

(b) To direct the respondents to promote him as Assistant/Store Keeper/LDC as a departmental candidate and under reservation quota of SC.



(22)

2. On notice, the respondents have filed their reply contesting the application and the grant of reliefs prayed for. We have heard the counsel for the parties and perused the records including the departmental file relating to the case.

3. During the course of the arguments, learned counsel for the respondents assisted by the departmental representative vehemently argued that Respondent No.3 alongwith 3 other Commands have been given 10% quota for holding Limited Departmental Examination(LDE) comprising written test and interview for the purpose of promotion from Group D to Group C though the 10% quota is controlled by the Air Hqrs., Delhi. He has furnished a copy of the Recruitment Rules (RR) which stipulates that "90% of the posts will be filled up by transfer, failing which by direct recruitment and 10% by appointment of Group D employees borne on regular establishment subject to the following conditions:

(a) Selection shall be made through a departmental examination confined to such Group D employees who fulfill the requirement of minimum educational qualification namely matriculation or equivalent;

(b) The maximum age for this examination shall be 50 years (55 years for SC/ST candidates); and

(c) At least 5 years service in Group D post is essential.

4. The RR provides that the age limit for direct recruitment is 18 to 25 years for general category candidates and $18\frac{3}{4}$ years for SC/ST category. It is admitted by the learned counsel that the applicant was more than 50 years when the direct recruitment took place and there was no order of relaxation making him eligible for direct recruitment. For direct

R

27

recruitment, no such relaxation is given and the reserved category candidates who are in the age group of 18-35 years only can apply. The learned counsel for the applicant vehemently argued that the age limit for 10% quota as mentioned in the RR is meant for direct recruitment also. This contention is not correct in view of the RR produced before us, conditions of which are extracted above. Reserved category candidates within the age group of 18-35 years are eligible to apply and will be considered, whereas the applicant is beyond that age group and therefore he does not qualify to be considered for direct recruitment. The application suffers from serious procedural infirmities since those four persons who were selected as direct recruits against the 90% quota are necessary parties and were not impleaded as such. The first prayer is directed against direct recruitment, the applicant has no locus standi, as 90% of the posts are to be filled up by transfer failing which by direct recruitment in the age of group of 18-25 years for general candidates and 18-35 years for SC/ST. The applicant was definitely above 35 years and there is no averment that the respondents have ever granted any relaxation to him to appear as a direct recruit.

5. As regards promotion quota, he has pointed out the names of three persons namely S/Shri Ved Prakash, K.C.Gupta and P.S.Sharma, who were promoted in 1981, 1982 and 1983 respectively and were junior to the applicant. Thus each year one person has been promoted. The records produced before the Bench show that the applicant was granted permission to appear in the written test held in 1981, 1983 and 1990 but he failed

28

9X

to qualify. These are official records and according to Section 114(E) of Indian Evidence Act the entries in the records will be treated as genuine and correct unless rebutted on very strong grounds. Therefore the contention that the applicant was not given any opportunity can not be accepted. Further it was necessary that the four persons of direct recruitment and three promotees should have been made parties in the OA since they are all necessary. In view of these infirmities coupled with the foregoing discussion on merits, the application fails and is dismissed leaving the parties to bear their own costs.

6. The interim order passed by the Tribunal on 15.11.91 stands vacated. The applicant will be free to agitate any grievance still surviving to him, ^{if any, by} ~~it so advised,~~ by filing a fresh OA in accordance with law.

A. Vedavalli

(Dr. A. Vedavalli)
Member(J)
27.2.1996

B
(B.K. Singh)
Member(A)
27.2.1996

/gtv/