

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

OA No.515/91

Date of decision: 23.9.92

Sh.Anil Kumar

...

Applicant

versus

Union of India through
Secretary, Min.of Railways & ors....Respondents

CORAM: THE HON'BLE SH.S.P.MUKERJI, VICE CHAIRMAN(A)
THE HON'BLE MR.T.S.OBEROI, MEMBER(J)

For the Applicant ... Sh.H.P.Chakravarty, Counsel.

For the Respondents... Sh.N.K.Aggarwal, Counsel.

1. Whether local reporters may be allowed to see the judgement? *yes*
2. To be referred to the Reporter or not? *No*

JUDGEMENT

(DELIVERED BY HON'BLE SH.S.P.MUKERJI, VICE-CHAIRMAN)

In this application dated 10.2.91, the applicant who is a member of the Scheduled Caste has challenged the order dated 8.10.90(Annexure A-1) by which he was refused entry in the apprenticeship training course for appointment as Skilled Artisan in the grade of Rs.950-1200 under the Division Railway Manager, Central Railway Jhansi and has prayed that the respondents be directed to allow the applicant to be admitted for training and appointment in that grade with full protection of seniority and other benefits.

2. The brief facts of the case are as follows.
The ^{applicant} ~~applied~~ applied for the post of Trade Apprentice in response to the notification issued by Division Railway Manager, Central Railway, Jhansi (Respondent No.3) and vide order dated 3.2.87(Annexure A-3),

he was selected for the post of Trade Apprentice and called upon to complete various formalities. He was medically examined by the Railway Medical authorities and was found unfit temporarily and vide communication dated 25.2.87 he was directed to appear for re-medical examination after three weeks. Unfortunately, the applicant, on further examination on 27.3.87 was declared to be unfit. Having recouped his health, he represented and was advised to report for medical examination vide Annexure A-5 dated 6.11.87. This time on medical examination, he was found medically fit but vide communication dated 18.11.87(Annexure A-6), he was informed as follows:-

" Since you have been found medically fit for Trade Apprentice and as the recruitment for 1987 is over you will be considered for appointment as Trade Apprentice along with 1988-April batch.(emphasise added)".

But before the April 1988 batch could start, he was informed by Annexure A-7 dated 25.3.88^{that} " you will have to wait till New Course starts for appointment as Trade Apprentice as and when fresh will start." When he received no intimation, he represented on 18.5.89 and reminded on 5.1.90. Ultimately vide impugned order dated 8.10.90(Annexure A-1) he was informed that since he ^{had} reached the age of 26 years, he cannot be admitted to the course of Trade Apprentice as the age-limit is 15 to 20 years. The applicant has argued that since he was not overage when he ^{had} applied and was selected, he cannot be denied appointment ^{as} Trade Apprentice by the impugned order.

3. In the counter, the respondents have stated that under the Apprenticeship Act, they are not

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bound to offer appointment to the applicant; that the applicant was still suffering from Tuberculosis and under the Apprenticeship Rules, he cannot be appointed. They have also stated that the letter dated 25.3.88(Annexure A-7) assuring that he will be considered for appointment along with 1988 April batch was signed by a clerk who had ~~not~~^{no} authority to issue such a letter and the application is time-barred. They have stated that according to their own information even though the applicant was declared medically fit four or five years back, ~~the~~^{he} Tuberculosis has recurred and the applicant is now suffering from T.B. and, therefore, has to be re-examined by a specialist in T.B. and by a team of Doctors. They have clarified that he could not be admitted to the training course which commenced on 13.9.87 as he was late by one month and 17 days and would have been short of attendance. They have conceded that the age-limit for ^{the} training is 15 to 20 years for general candidates and 5 years' relaxation is given to the upper age-limit for SC/ST candidates.

4. In the rejoinder, the applicant has denied that he is suffering from T.B. and has produced a Medical Certificate dated 18.1.92 from a Senior District T.B. Officer at Jhansi that he is fit for Trade Apprentice job and no disease or disability has been found in him.

5. We have heard the learned counsel for both the parties and gone through the documents carefully. Having issued the assurance that the applicant would be considered for appointment as Trade Apprentice along with 1988 April batch (Annexure A-6) with a further assurance dated 25.3.88 of such appointment, the respondents cannot go back ~~on~~^{to} their assurance

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and decline admission to the applicant to the Trade Apprenticeship course. Even though the contention of the respondents that the assurance given at Annexure A-7 was by a clerk who was not competent to give that assurance is accepted, the fact remains that vide communication dated 18.11.87(Annexure A-6) as extracted above, he ^{had been} ~~was~~ given the same assurance and it is not the case of the respondents that this assurance also was issued by an incompetent officer. The respondents have not produced any document to show that the applicant had developed T.B.again. On the other hand ^{the} medical certificate ^{dated 18.1.92} ~~produced~~ by the applicant along with his rejoinder shows that there is no such disease and that he is fit to join the Trade Apprentice job. The question of age-bar in view of the circumstances indicated above does not arise because when the applicant was selected he was within age-limit as available to SC/ST candidates. This is not disputed by the respondents. In the circumstances, we allow the application, set aside the impugned order dated 8.10.90(Annexure A-1) and direct the respondents to appoint the applicant forthwith as Trade Apprentice after getting him medically examined and if he ^{is} ~~is~~ found to be medically ^{allow him} fit ^{to} join as such. There will be no order as to costs.

T.S. Oberoi 23.9.92
(T.S.OBEROI)
MEMBER(J)

S.P. Mukerji
(S.P.MUKERJI)
VICE-CHAIRMAN(A)

SNS