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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. NO. 1123/1993

New Delhi this 4th day of March 1994

The Hon'ble Mr. J.P. Sharma, Member (J)

The Hon'ble Mr. B.K. Singh, Member (A)

Shri Hira Singh,
Son of late Shri Alam Singh,
Resident of H-231 Gali No. 9,
Raj Nagar Part II,
Palam Colony,
New Delhi-110 045. .. Applicant

(By Advocate Shri S.C. Luthra)

Versus

1. Union of India,
through Secretary,
Ministry of Home Affairs,
North Block,
New Delhi.
2. The Director Intelligence Bureau,
Ministry of Home Affairs,
North Block,
New Delhi-110 011. .. Respondents

(By Advocate Shri N.S. Mehta)

O R D E R

Hon'ble Mr. J.P. Sharma, Member (J)

The grievance of the applicant is non selection to the post of Security Assistant (General) and he has been conveyed the result of the selection by the Memo dated 20.4.1992. The applicant has prayed that he be regularised as Security Assistant from the date of which Shri Mahesh Kumar Sharma his junior is appointed with all consequential benefits.

2. The respondents contested the application and stated that the applicant was initially engaged on a daily wage basis from 5.4.1986 according to exigencies of Government work. The applicant has applied for the post of Security Assistant
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under SIB Tejpur in 1991. Age limit prescribed for the post was between 18 - 25 years as on 30.9.1991. The applicant's Date of Birth is 27.9.1959 and he had crossed 32 years of age on the crucial date. The upper age limit prescribed for direct recruitment to the post of Security Assistant can be relaxed in respect of candidates possessing a minimum of two years satisfactory field experience in intelligence work in an Intelligence Organisation to the extent of total duration of field experience possessed by such candidates subject to the conditions that the relaxation shall be for not more than five years in any case. Even after granting age relaxation for the maximum permissible period of five years, he was over aged by two years on the crucial date. As further relaxation in the age beyond 30 years (25 + 5) is not permissible under the rules, the applicant could not be eligible for appointment as Security Assistant on the basis of examination conducted by SIB, Tejpur.

3. We heard the learned counsel for the parties at length and perused the record. The applicant has not disputed the fact of relaxation of age upto 5 years but the applicant has prayed for the grant of the relief on the ground that he cannot be discriminated regarding appointment on the basis of over age because the respondents have given benefits to one Shri K.D. Vats a fielder in SESY who had been regularised though he was over aged like the applicant. The respondents have stated that there is no similarity between the case of Shri K.D. Vats and the applicant because he took the 1989 examination and the crucial date was 31.10.1989 and the date of birth of Shri Vats being

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20.10.1960 after giving relaxation of five years he did not cross the upper age limit of 30 years. He was eligible age-wise and was given the appointment. As regards Shri Mahesh Kumar Sharma he was selected on the basis of selection and examination held by SIB Tejpur in 1990 and interviewed in 1992. His Date of Birth is 12.12.1968 and he was within the age limit on the crucial date i.e. 30.9.1990. In view of this fact the contention of the learned counsel is that the applicant has been discriminated has no basis.


4. The further contention of the learned counsel is that maximum relaxation that can be given as per the averment made in the counter to the extent of total duration of field experience possessed by any such candidate which may be upto five years. Shri K.D. Vats had not put in five years of field experience and so he has been wrongly given five years of relaxation. Even if this contention is accepted even after giving five years relaxation to the applicant he is over aged by two years. This also does not help the case of the applicant.

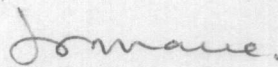
5. However, the question still remains that when the applicant was over aged he should not have been called for interview after passing the written test. It was held on 19.1.1992. Firstly, he was not called for interview but only on representation he was allowed to appear in the interview on 5.3.1992 at Tejpur. Further the applicant had disputed regarding passing of the written test and selection of Shri Vats in 1989.

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The relaxation in his case was obtained in 1991 when he has become over aged. The examination was conducted in 1992 separately but in records Shri Vats and others like him were shown to have been selected in 1989. This test was conducted for those who are not eligible in 1989 and were not allowed to sit in the test. This fact has not been disputed by the respondents in spite of the time having been allowed to file the additional reply. When this fact is further tested regarding credibility then it does not stand to reason why the appointment of Shri Vats, SA was delayed by two years if he had already passed in 1989 because he was appointed SA on 20.8.1991. In view of this the respondents have to consider the case of the applicant afresh on the basis of the above discussions.

6. The application is disposed of with the direction to the respondents to consider the case of the applicant afresh and pass the speaking orders if the applicant is still aggrieved. It shall be open to him to assail that order if so advised according to law. Costs on parties.


(B.K. Singh)
Member(A)


(J.P. Singh)
Member (J)

Mittal