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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 953/93

DECIDED ON : 03.05.1993

R. S. PUNIA

...

APPLICANT

VS.

UNION OF INDIA & ORS.

...

RESPONDENTS

CORAM :

THE HON'BLE MR. JUSTICE V. S. MALIMATH, CHAIRMAN
THE HON'BLE MR. B. N. DHOUNDIYAL, MEMBER (A)

Shri V. S. R. Krishna, Counsel for Applicant

J U D G M E N T (ORAL)

Hon'ble Mr. Justice V. S. Malimath :-

The petitioner claims that he is eligible in every respect for the post of Supervisor (Fire). He says that he has gone through the process of selection and was found otherwise suitable for appointment except for the age qualification. The age qualification for the post according to the rules, copy of which has been produced as per Annexure A-1, is 30 years, relaxable upto 35 years in the case of Government servants. The counsel for the petitioner submits that the petitioner being a Government servant, the age limit, as far as he is concerned, is 35 years and not 30 years. It is not possible to accept this contention having regard to the plain language prescribing the age limit. The prescription does not say that 35 years is the age limit for Government servants. It only enables

relaxation upto 35 years in case of Government servants. The power of relaxation cannot be claimed as a matter of right. It depends upon the exercise of discretion having regard to the relevant facts and circumstances. As the higher age limit of 35 years is not prescribe for the post, the petitioner, who was admittedly above 30 years on the relevant date, is not eligible for appointment.

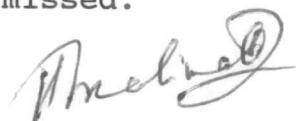
2. It was also contended that it was wrong on the part of the authorities to have denied relaxation in favour of the petitioner on the basis of an order which was referable to the making of recruitment for different year 1990-91. Our attention was drawn to Annexure A-6 dated 1.1.1991 wherein it is stated that age relaxation for direct recruitment is not acceptable at present as intimated by the Army Headquarters letter dated 15.3.1990. The 1er part of Annexure A-6 conveys that having regard to the paucity of candidates at the relevant point of time the sanction for relaxation was granted for specified number of posts and that there is no general order for granting relaxation for recruitment on other occasions. As relaxation cannot be claimed as a matter of right, it is not possible to take the view that the authorities have acted arbitrarily when they conveyed in Annexure A-6 that the question of relaxation in favour of the petitioner does not arise as the authorities have taken a decision not to grant any relaxation. The question

of retrospectivity as contended by the learned counsel for the petitioner does not arise in this case as it is not a question of a decision being applied prospectively or retrospectively. It only indicates that a decision was taken for the purpose of relaxation in respect of specified number of posts having regard to the special conditions prevailing therein and not a decision for relaxation for all times to come.

3. As we are satisfied that no case for interference has been made out, this petition is dismissed.

B. N. Dhoundiyal

(B. N. Dhoundiyal)
Member (A)



(V. S. Malimath)
Chairman

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