

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 13th day of May 2002.

QUORUM : HON. MR. S. DAYAL, A.M.

HON. MR. RAFIQUDDIN, J.M.

O.A. No. 147 of 1996.

Jagat Narayan Mishra s/o Nand Kishore Mishra r/o Vill. Duari,  
Post Ismailganj, District Allahabad.

.....

..... Applicant.

Counsel for applicant : Sri Chandra Prakash.

Versus

1. Union of India through Secretary, Ministry of Defence, Govt.  
of India, New Delhi.

2. Engineer-in-Chief, Army Head Quarters, New Delhi.

3. Commander Works Engineer, Military Engineering Services  
(MES) behind High Court Building, Allahabad.

.....

..... Respondents.

Counsel for respondents : Sri A. Sthalekar.

O R D E R (ORAL)

BY HON. MR. S. DAYAL, A.M.

This application has been filed for direction to the respondents to appoint the applicant as Switch Board Attendant and pay the entire back wages with consequential benefits admissible to him from time to time and allow seniority and promotions over the persons junior to the applicant. The applicant has claimed that he was recruited as casual Switch Board Attendant on 26.5.93. He was required to appear in the trade test of Switch Board Attendant before the Board of Officers for appointment on regular basis on 5.1.1988. A letter of appointment dated 8.2.89 was issued but it was cancelled by letter dated 22.2.89 which was addressed to the grand father of the applicant. He was found over age at the time of interview and, therefore, his case along with the others similarly situated were referred to higher authorities for age relaxation. Therefore, his appointment was deferred.

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a little over

The applicant has claimed that his age was 22 years, <sup>the 1983</sup> ~~over~~ at the time of his first recruitment in 1983. Therefore, he was informed that the direction of higher authorities was awaited. The applicant has claimed that since he had been engaged on casual basis when he was not over age, therefore, his appointment could not have been denied on the said ground. In this connection, he refers Govt. of India, Department of Personnel Notification No.2/10/72-Estt. / (D) dated 7.3.1974. The applicant has claimed the relief in the backdrop of his facts

2. We have heard the arguments of Sri Anubhav Chandra, B.H. of Sri Chandra Prakash for applicant and Sri A. Sthalekar for respondents.

3. Counsel for the respondents has raised the issue of limitation in this case. He has mentioned in the C.A. that the applicant's services were terminated in 1989 and he has approached the Tribunal after a gap of 8 years in 1996 and, therefore, the application is barred by limitation.

4. Counsel for the applicant, on the other hand, refers to M.A. No.22 90/96 in which he had stated that a ban was imposed on recruitment after the receipt of letter dated 22.2.89 and was only lifted in 1994. The respondent No.3 was directed by Chief Engineer, Lucknow Zone, Lucknow to prepare a list of those candidates who had ~~to be~~ <sup>been</sup> in service for more than 240 days and whose candidature was sponsored by the local employment exchange. The applicant claims that he fulfilled the requirements as stipulated in letter of Chief Engineer, Lucknow Zone written some times in 1994. The applicant claims that he is entitled to appointment in terms of the decisions arrived at in OAs 892/91 in case of Awadh Kishore Vs. Union of India & others in order dated 25.4.94 in O.A. 893/91 between Jeet Narain Vs. Union of India & others dated 25.4.94 and 1235/95 between Ramesh Chandra Vs. Union of India & others in order dated 2.12.95.

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5. Counsel for the respondents, on the other hand, places reliance upon the bunch of cases between Ram Murat Vishwakarma Vs. Union of India & others along with five other cases in which the applicants had worked on casual basis up to the year 1983 and 1984 respectively but they had filed their applications only in 1996 and, therefore, even if ban was lifted in 1993, their cases would not come within the period of limitation.

6. This case is distinguishable from cases decided in Ram Murat Vishwakarma Vs. Union of India & others and other similar cases which were disposed of by a common order dated 17.7.2000. In so much as in those cases, the applicants were actual labourers, who have not appeared for regularisation. while in the present case the applicant had appeared for regularisation and has been given letter of appointment dated 8.2.89. In letter dated 22.2.89 addressed to the grand father of the applicant, the respondents had informed the applicant's grand father as follows :-

"1. Reference your application dated 20 Sep 88 addressed to Prime Minister of India.

2. It is to inform you that your grand son Sri Jagat Narain Misra was found overage at the time of interview by the Board of Officer held on 05 Jan 88, hence he could not be given appointment in the Department.

3. The case of your grand son along with others, who also were overaged at the time of interview has been taken up with higher authorities for age relaxation which decision is still awaited.

4. Further action will be taken on receipt of sanction for age relaxation."

7. Thus, it was for respondents to have inform the applicant about the outcome of their correspondence with their superiors regarding age relaxation. Since this has not been done, we consider the application to have been filed within time and direct the respondents to consider the case of the applicant for appointment in the light of decisions in Awadh Kishore Vs. Union of India & others in O.A. No.892/91 of Allahabad Bench decided on 25.4.94 and O.A. No.893/91 Jeet Narain Vs. Union of India & others decided on 25.4.94. The respondents shall pass an order within a period of three months from the

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date of receipt of a copy of this order.

There shall be no order as to costs.

*Ratneshwar*

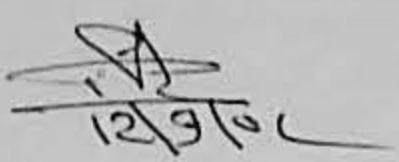
J.M.

*Ashw*

A.M.

Asthana/  
15.5.02

O/R  
MANO 3546/02 with  
Affidavit has been filed  
by S. A. Scheller, Advocate,  
Submitted for order  
on 16-9-02.

  
12/9/02

OA. 147/96

16.09.2002

Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mrs. Meera Chhisher, J.M.

There is a request for adjournment on behalf of Shri Amit Sthalke, counsel for the respondents on the ground of his illness, adjourned for the day.

List on 24.09.2002.



J.M.



A.M.

Shukla:-

O/R

This file has been received  
in Court, Section on 20/9/02  
after the full preparation  
of regular list dt; 24/9/02.

Hence Submitted as unlisted  
case for 24/9/02.

V.W  
20/9/02

O.A No. 147/96.

24.09.2002.

Hon'ble Mr. S Dayal, A.M.

Hon'ble Mr. A.K. Bhatnagar, J.M.

Sri A. Sthalekar counsel for the respondents  
has sought adjournment on the ground of illness  
slip. <sup>A</sup>Adjourned.

List this case for orders<sup>R</sup> on 06.11.2002.

*AM*

J.M.

*AM*

Manish/-

O.A. No.147/96.

06.11.02

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

Hon'ble Mai. Gen. KK Srivastava, A.M.

Km. Sadhna Srivastava brief holder of Sri  
A. Sthalekar, counsel for the respondents.

This M.A.No.3546/02 has been filed by the  
respondents for extension of time to implement the  
order dated 13.05.02 passed in O.A. No.147/96.

This Tribunal granted three months time to pass  
suitable order. Three months time expired in the  
month of August 2002. Respondents filed this  
application on 03.09.02 praying for time. Two months  
have already passed till today, which has been  
availed by the respondents. Considering the facts  
and circumstances, the prayer of the respondents  
is allowed for two months time with the condition  
that no further time shall be granted. M.A. is  
disposed of.

A.M.

V.C.

Manish/-

O.A. No.147/96.

06.11.02

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

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A.M.

V.C.

Manish/-

Application

Decanter 365/96  
Administrative Tribunal  
Additional Bench Allahabād  
Date of Filing 01.02.96

OR

Date of Receipt  
by Post

By Registered  
S/

11/2/96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDL. BENCH, ALLAHABAD

Original Application no. 147 of 1996

( under section 19 of the Administrative Tribunal Act, 1985)

Jagat Narayan Mishra s/o Nand Kishore Mishra, resident of  
Vill.- Duari, Post- Ismail ganj, Dist. -Allahabad.

..... .... Applicant

Versus

- 1- Union of India through Secretary, Ministry of Defence  
Govt. of India, New Delhi.
- 2- Engineer -In-Chief, Army Head Quarters, New Delhi.
- 3- Commander Works Engineer, Military Engineering Services  
(MES) behind High Court Building, Allahabad.

..... .... Opposite Parties

DETAILS OF THE APPLICATION-

- 1- PARTICULARS OF ORDER AGAINST WHICH APPLICATION  
IS MADE-

This application is being made against the  
representation dt. 5/5/95 to the respondent no. 3.

- 2- JURISDICTION OF THE TRIBUNAL-

The application declare that the subject  
matter against which the application seek redressal is  
within the jurisdiction of this Hon'ble Tribunal.