

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Allahabad, this the 20th day of September, 2002

Original Application No. 792 of 1996

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

Hon'ble Mrs. Meera Chibber, J.M

1. Ashok Kumar s/o Chhote Lal resident of 101 RA Bazar, Post Office GPO Allahabad.
2. Ganga Ram s/o Buchchi Ramresident of Vill.+ Post Dharani Distt. Ghazipur.
3. Deoptendu Bhattacharya s/o Sri Haridas Bhattacharya resident of B-13/81 Sonarpura, Varanasi.

....Applicants

counsel for the applicant:-Sh. C.Prakash

Versus

1. Union of India through Secretary, Ministry of Defence Govt. of India, New Delhi.
2. Engineer-In-Chief. Miletery Engineering Services (MES) Behind High Court Building, Allahabad.
3. Commander Works Engineer,
Behind Highcourt, Allahabad.

.... Respondents

counsel for the respondents.-Sh. A. Sthalekar

O R D E R

(By Hon'ble Mr. S.Dayal, Member (A)

This application has been filed with a prayer that the respondents be directed to post, the applicants as Oil and Engine Driver and to pay the entire back wages and all consequential benefits admissible to the applicants from time to time.

2. The claim of the applicant No. 1 is that he worked on Casual basis from 8-11-1983 to 5-1-1985 for 264 days. Applicant No.2 has worked between 17-7-1984 and 1-12-1986 intermittently for a period of 168 days and applicant No. 3 has

worked intermittently from 3-3-1984 to 25-10-1985 for a period of 234 days. A Selection Board was constituted for filling up regular vacancies of Oil and Engine Drivers in the Department and the applicants were called for trade test and interview for the post of Oil and Engine Driver on 13-11-1987. The applicants claimed that they were selected for the post of Oil and Engine Drivers but while some selected candidates were appointed, they were denied appointment on the ground that they were over age on the date of interview. It is claimed that the respondents No.2 sought age relaxation. The applicant's were given to understand by respondent No.3 that they will be appointed on receipt of orders of age relaxation. The applicants have also claimed that there was a ban because of which the post in question were not filled up and that the ban was lifted in 1994 and it was decided to offer appointment against existing vacancies to those casual workers, who were initially inducted through Employment Exchange and worked for more than 120 days as casual workers. In this connection, the learned counsel for the applicant has drawn our attention to annexure A-5 which has been filed along with the affidavit. The Annexure A-5 is dated 26-11-1993 and has been issued by Office of Chief Engineer, Lucknow. Paragraph 2 of this letter stipulates that those casual labourers, who were removed/discharged from service only on account of the ban put by the Government on recruitment as a result of which these workers could not be brought into the regular temporary establishment to be afforded opportunity for appointment against existing vacancies. Proposals for regularisation of all left out casual workers were invited in a time bound manner.

3. The applicants also rely upon the judgement of this Tribunal in O.A NO. 892/91 dated 25-4-1994 and 893/91 dated 25-4-1994. It was held that the respondents had wrongly excluded the applicants from appointment as

pump Attendant due to over age and that the applicants were entitled to be appointed alongwith others who were given such appointment. The applicant has also filed a representation dated 24-4-1995 (Annexure A-5) in which they ~~were~~ ^{have} claimed that age relaxation has been received by respondent No.3 from respondent No2 but the applicant had still not been appointed.

4. We have heard the arguments of shri Anubhav Chandra, brief holder of Shri Chandra Prakash for the applicant and Shri S.K.Pandey, brief holder of Shri A. Sthalekar , counsel for the respondents.

5. The respondents have contested the claim of the applicants on the ground of limitation and on the ground that the applicants were over age. The respondents have also contested the averments made by the applicants that they were selected by the Board of Officers. They have also claimed that ban was imposed in June 1987.

6. As far as the issue of limitation is concerned, since the applicant's have claimed that the ban was lifted in the year 1994 and they had made representations to the respondents in 1995, which is still pending with the respondents, we consider that the application has been made within the period of limitation. There is reason to believe that the ban continued to operate for a period considerable longer than 1987. The applicant has annexed as Annexure A-5, a letter of the office of Chief Engineer which shows that even in 1993, persons could not have been regularised because of the fact that Government had put ban on recruitment.

7. There is a difference in the claim made by the

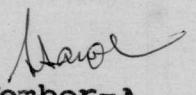
applicant regarding selection held in 1988 and the empanelment of the applicant's in that selection and what the respondents have mentioned in the counter reply. The two judgements, annexed by the applicant, to the O.A., shows that there was a recruitment held in 1988 when some persons were not offered appointment because of overage. ^{fact would be} Therefore, this could also be required to be verified by the respondents.

8. We consider it appropriate in the interest of justice to require the respondents to consider representation of the applicant dated 24.04.1995 Annexure (A-5) by a reasoned and speaking order within a period of three months from the date of receipt of a copy of this order alongwith a copy of representation. The judgements annexed in the O.A. alongwith judgement in O.A No. 147/96 (Jagat Narayan Mishra Versus Union of India and others) dated 13.05.2002 be considered by the respondents in deciding the representation of the applicant.

9. There shall be no order as to costs.



Member-J



Member-A

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