RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

DATED: THIS THE 10 DAY OF November 1998

Coram : Hon'ble Mr. S. Dayal AM

Hon'ble Mr. S.K.Agrawal JM

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Original Applications 109/97, 153/97, 154/97, 162/97, 165/97, 166/97, 167/97, 168/97, 169/97, 173/97, 236/97, 421/97, 965/97, 38/98 and 122/98.

ORDER

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

These are applications made under section 19 of the Administrative Tribunals Act 1985 and a common judgment is being given because the applicants have based their relief on the ratio of the landmark judgment of the Apex court in U.P.S.R.T.C. and another V/s U. P. Parivahan Nigam Shishukhs Berozgar Sangh and others, A.I.R. 1995 SC 1115. The reliefs claimed in these applications would be admissible, if it is sought according to the criteria laid down in the judgment. It is, therefore, necessary to understand the criteria laid down in the judgment.

2. Para 12 of the judgment requires the following to be kept in mind while dealing with the claim of the trainees to get employment after successful completion of their training.

" (1) Other things being equal, a trained apprentice should be given preference over direct recruits.

(2) For this, a trainee would not be required to get his name sponsored by any employment exchange. The decision of this court in Union of India V/s V.Gopal, AIR 1987 SC 1227, would permit this.

(3) If age bar would come in the way of the traninee, the same would be relaxed in accordance with what is stated in this regard, if any, in the concerned service rule. If the service rule be silent on this aspect, relaxation to the extent of the period for which the apprentice had undergone training, would be given.

(4) The concerned training institute would maintain a list of persons trained year-wise. The persons trained earlier would be treated as senior to the persons trained later. In between the trained apprentices, preference shall be given to those who are senior. "

3. The first criterion laid donw in the judgment is that ~~XXXX~~ the entitled category to the benefits of the judgment are the apprentices who have successfully completed their training under the Apprentices Act 19. There are certain government departments like the Railways who induct candidates against regular vacancies in their department, call them apprentices, grant them stipend during their training and then post them after successful completion of their training on regular pay scales. The judgment is not applicable to this category of apprentices. as they are outside the purview of the apprenticeship Act. These apprentices are recruited with promise to absorb them against regular posts in the organisation on successful completion of their training. The apprentices under the Apprentices Act are placed against training slots and are not recruited based on number of vacancies available in the department. The objective of training them is to supply vocationally trained manpower for employment in the organisations needing similar skills as also for self employment. It is in this context that the judgment refers to section 22 of the Apprentices Act which does not make it obligatory for the Employer to offer employment to apprentice who has completed his period of training.

4. The second criterin is that that all apprentices trained under the Act do not qualify for employment as

artisan in the trades in which they have received training. Only those who have successfully completed training would be so entitled. Successful completion of training entails passing of examination which may be prescribed and obtaining a certificate from the Certifying authority. A candidate who may have completed the period of training but has not appeared at or passed the examination prescribed, would not be entitled to relief under the judgment.

5. The third criteria is that an apprentice would only be entitled to preference over a direct recruit if other things are equal. This means that an apprentice would have to compete with a direct recruit in the selection process and if both of these are found to be equal or obtain equal marks, the apprentice would be given the appointment. The apprentice shall have to participate in the selection process for this purpose which would require on the part of the apprentice to make an application as and when the post is advertised. This is necessary because candidature is voluntary. Since the recruitment process is time bound as filling up of vacancies is of utmost importance to any organisation for proper functioning of that organisation, the apprentices would have to adhere to the time schedule prescribed for the process. This would involve making application on or before the last date and participating in written practical and interviews as scheduled by the recruiting agency.

6. The fourth criterion is that if the Employers have to fill up the post by notifying it to employment exchange, they shall also have to advertise the post for the benfit of apprentices V others who may not be registered with the employment exchange. This is of utmost importance as otherwise the apprentices would be

deprived of their opportunity to participate in the selection for want of information. It is for this reason that the judgment lays down that an apprentice would not be required to get his name sponsored by any employment exchange. In laying this principle, the apex court has followed the ratio of Union of India and others V/s N.Hargopal and others AIR 1987 SC 1227. The apex court has made further concessions in favour of those not registered with the Employment Exchange in Excise Supdt. Malkapatnam V/s K.B.N.Visheshwar Rao and others (1996) 6 SCC 216 and has laid down that wide publicity should be made of vacancies available. Such a stipulation was necessary to give opportunity to the best person available for the post sought to be filled.

7. The fifth criterion is that the apprentice would be entitled to relaxation of maximum age bar in accordance with provision of recruitment or service rules and if no provision for giving age relaxation to apprentice exists, an apprentice would be entitled to age relaxation to the extent of the period for which the apprentice had undergone training. An ambiguity can arise here that thatapprentices with prior successful completion of I.T.I. certificate course in the trade are given reduction in the period of training. It would be unreasonable to give the benefit of longer duration for age relaxation to those who have joined apprenticeship training directly and to give shorter span for age relaxation to those who had completed their I.T.I. certificate course prior to joining the apprentice-ship training.It is, therefore, necessary to clarify that age relaxation would be to the extent of apprenticeship training prescribed for non I.T.I.candidates to all apprentices.

8. The sixth criterion is that Training Institute would maintain a list of persons trained year-wise and those trained earlier would be senior to those trained late and preference would be given to those who are senior. The list would become useful, if preference is to be given to one of the two apprentices who have been rated as equals for a job or where the organisation has provided slots for apprentices under its direct recruitment quota in order to ascertain seniority or otherwise of candidates.

9. The last criterion is that since the ap rentice-ship training has the broader objective of providing vocationally trained manpower and the process of selection should not restrict but enlarge the field of choice, the benefits to apprentices trained in government or Public Sector would be entitled to apply for the category of posts for which they have their apprenticeship training in those organisations and for consi eration for selection to such posts. A Fitter trained in Railways would be entitled to apply for the job as Fitter in Ordnance Factories and would be entitled for the benefit of the ratio of UPSRTC and another V/s U.P.Parivahan NigamShishukhs Berozgar Sangh and others (Supra) This has been clairified in Ministry of Labour, Directorate General of E & T letter No.DGET 50/ /2/95 dated 26.2.1996 (annexure in OA 109 of 1997).

10 As far as the present lot of cases is concerned, they are for employment on the posts of tradesman. It would be necessary to mention in connection with the batch of cases before us that although the essential qualification mentioned is a certificate from recognised I.T.I. or equivalent in the appropriate field or trade, a tradesman, who has obtained certificate from recognised I.T.I. and followed it up by successful completion of apprenticeship training in the appropriate trade or a tradesman who has successfully completed apprenticeship training in recognised trade without going through I.T.I.training

has to be considered ecuivalent to certificate holder in appropriate field or trade from recognised I.T.I. Hence those who have successfully completed their apprenticeship training in appropriate field or trade cannot be denied consideration and have to be given preference if they are rated as equal to an open market candidate. The applicant has appeared in the test but his result has been withheld in accordance with interim direction and his result may be declared.

ORIGINAL APPLICATION NO.109 OF 1997

Hemant Kumar Gupta son of R.P.Gupta,
resident of 8/5 Shakti Nagar, Gwalior Road,
Agra. - - - - - - - - - - - - - Applicant
C/A Sri K.Kumar

Versus

1. Union of India, Ministry of Defence,
   Raksha Bhawan, New Delhi through its
   Secretary.
2. Commandant, 509 Army Base Workshop
   Agra.
3. Regional Employment Officer,
   Employment Exchange, Agra.- - - - - - - - -Respondents

C/R ~~Km~~.Km.Sadhna Srivastava
Shri Amit Sthalekar
Shri A.K.Gaur
Shri K.P. Singh

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The applicant has claimed the relief of direction to the respondents to appoint the applicant on the post of T.C.M. and to accept the form of the applicant for the post of T.C.M. The applicant has mentioned that his trade in I.T.I. examination and as apprentice was Electronics. The sole reason for rejection of the candidature of the applicant vide respondent's letter dated 26.2.1997 was that he was overage. We have heard Shri K.Kumar for the applicant and Shri Amit Sthalekar for the respondents. We direct the respondents to examine within 3 months from

from the date of a copy of this order as to whether Electronics is the appropriate field or trade for the post of T.C.M. and whether the applicant had appeared and passed his ITI. and apprenticeship examinations and obtained NCVT certificates, and if so, the applicant shall be granted age relaxation to the extent of period prescribed for apprenticeship training for the trade of Electronics and considered for the post of T.C.M. in the light of this order, if he comes within the age limit after such relaxation. The applicant has appeared at the trade test but his result has been withheld. It may be declared & ⊙ appointment made if found suitable within three months from the date of receipt of a copy of this order. No order as to costs.

Original Application No.153 OF 1997

1. Amit Sharma s/o B.B.L.Sharma,
   R/O 22/30, Shashtri Nagar, Langre Ki Chauki,
   Agra.
2. Tarun Kumar Sharma S/O Lal Bahadur Sharma,
   R/O House No.25, Chandan Nagar, Shahgunj,
   Agra.
3. Tarun Kumar Singhal son of R. K. Singhal,
   resident of 72, Defence Estate,
   Bindu Katara, Agra.
4. Deoraj Sigh son of Ram Dayal,
   resident of Village Malikpur,
   Post Faithpur Seokari, Agra.
5. Tarkeshwar Singh Rathore son of Late S.P.Singh
   Rathore, resident of 16-Defence Estate,
   Bindu Katara, Agra.
6. Kailash Chandra son of Manohar Lal,
   resident of 35/131 F Nagla Bhawani Singh,
   Nai Basti, Bindu Katara, Agra.
7. Km.Shakuntala D/O Sultan Singh,
   R/O 64/40 A, Firaj Khan, MadhuaNagar,
   Agra

---------- APPLICANTS

Versus-

1. Union of India, Ministry of Defence,
   Raksha Bhawan, New Delhi through its Secretary.
2. Commandant, 509 Army Base Workshop,
   Agra .
3. Regional Employment Exchange Officer
   Agra.
4. Director, Training & Employment,
   U.P. Luckbow - - - - - - - - - - - - -Respondents

These are seven applicants who have claimed to have passed their I.T.I. certificate course in Instrument Mechanic and Electronics trades respectively and, thereafter, done their apprenticeship training. The copies of certificates show that all of them are within age limit barring Shri Kailash Chandra, applicant no.6, who will be entitled to age relaxation in terms of the apex court judgment. The reliefs claimed are directions to the respondents to call/absorb and appoint the applicants against vacancies notified in D.O. dated 22.1.1997. The arguments of Shri R.S.Gupta for the applicant and Shri Amit Sthalekar and Shri K.P. Singh for the respondents have been heard. An interim order was passed to permit the applicants provisionally to appear in the examinations scheduled to be held on 25.2.1997 if they were otherwise qualified for the post for which selection was going to be held but their results were not to be declared until further orders. The respondents in paragraph 5(j) of their counter reply have mentioned that the applicants have been permitted to appear at the trade tests for trades for which they had applied and their results are withheld. The respondents are now directed to declare the results within three months from the date of receipt of a copy of this order and appoint the candidates, if they are found suitable ~~eligible~~ for appointment in the trade tests and selection held

by granting age relaxation in terms of this order, if necessary. It may be ascertained that their I.T.I and apprenticeship certificates have been granted by N.C.V.T.

No order as to costs

ORIGINAL APPLICATION NO.154 OF 1997

1. Manoj Singh son of Ratan Singh Verma,
   resident of 36/116 Gummat Takht,
   Agra
2. Rajeev Sharma son of Prem Nath Sharma,
   r/o 18/2 Shakti Nagar, Gwalior Road,
   Agra.
3. Sanjay Kumar Mishra son of K.D.Mishra,
   resident of 39/698/34 A, Govind Bihar,
   Devari Road, Agra.
4. Manoj Upadhya son of R.D.Sharma, 255 Defence Estate,
   Phase II, Devari Road,
   Agra .
5. Deepak Sharma son of Suresh Prasad Sharma,
   r/o 29 Indra Colony, Shahgunj,
   Agra.
6. Prem Chandra son of Sita ram
   r/o 37/6B, Bundu Katra, Gwalior Road,
   Agra.
7. Shailendra Rawat son of Kishan Babu Rawat
   r/o 23/4 Rana Pratap Colony,
   Sadar Bazar, Agra - - - - - - - - - - - -Applicants

C/A Sri R.S.Gupta

Versus

1. Union of India Ministry of Defence, Raksha Bhawan
   New Delhi through its Secretary.
2. Commandant, 509 Army Base Workshop, Agra
3. Regional Employment Exchange Officer, Agra.
4. Director, Training & Employment, U.P. Lucknow

- - - - - - - - - - - - --Respondents

C/R Sri A. Sthalekar

These seven applicants who have claimed to have completed their I.T.I.Certificate course and five of these namely S/Shri Rajiv Sharma, Sanjai Kumar Misra, Manoj Upadhya, Prem Chandra and Shailendra Rawat have denied to have completed their apprenticeship in relevant trades on 10.?.1997, have sought direction to respondents no.2 and 3 to sponsor the name of the applicants and to call them to the test to absorb in service giving preference over general candidates. Interim directions were issued to the respondents to allow the applicants to appear in the selection on a provisional basis in the light of Excise Supdt. V/s K.B.N.Visheshwar Rao and others decided by the apex court but not to declare results till further orders. The respondents have confirmed in para (j) of their counter reply that the candidates have been permitted to appear at thetrade tests for which they had applied and that their results have been withheld.The arguments of Shri R.S.Gupta for the applicant and Shri Amit Sthalekar and Shri K.P.Singh for the respondents have been heard. The applicants are entitled to be considered for selection and for appointment only if they qualify in the selection interms of this judgment. Therefore, the respondents are directed to declare the results of the applicants and appoint them if selected by granting applicants Nos.2,3,4,6 and 7 above named preference and age relaxation in terms of this order, if required within three months of receipt of a copy of this order. It may be ascertained that they possess ITI and apprenticeship certificates granted by NCVT.

No order as to costs.

ORIGINNAL APPLICATION NO.162 OF 1997

1. Vinay Kumar Sharma S/O Ishwari Pd. Sharma
   resident of 2/6 Namner
   Agra.

2. Sanjeev Gupta son of Giri Pd. Gupta,
resident of 29-B Alok Nagar,
Jaipur House, Agra.
3. Km. Usha Rawat D/O Prem Singh,
resident of20-AAyodhya Kunj,
Agra.
4. Km.Smita Jain D/O Satish Chandra Jain,
resident of 30/46 Chhipatola,
Agra.
5. Vinish Kumar Agrawal S/O M.C.Agrawal,
R/O 194, Defence Estate, Gwalior Road,
Bundu Katra, Agra.
6. Km. Renu Gupta D/O Kailash Chand Gupta,
resident of F-147 Kamta Nagar, Agra.
7. Km. Geeta Sharma D/O R.P.Sharma
resident of 114 Nagria, Iddha, Jagner Road,
Agra.
8. Sandeep Kumar son of Baldeo Raj,
resident of LIG L/1/1, Shahad Nagar,
Agra.
9. Jawinder Singh son of Niranjan Singh,
resident of of 3-Defence Estate,Gwalior Road,
Agra.
10. Sanjeev Kumar son of Hamuna Prasad,
resident of 38/40/13-A Nai Abadi,
Gopal Pura, Agra.
11. Bharat Bhooshan Jain S/O Rajendra Kumar Jain,
resident of 54-Defence Estate,Phase II
Bundu Katra, Agra.
12. Tajendra Pal Singh s/oParamjit Singh,
r/o 82-Defence Estate Colony,Gwalior Road,
Agra Cantt.
13. Hari Om Kumar S/O Hargovind Singh,
House No.37/46-E Bundu Katra,Agra

14. Sunil Kumar S/O Om Prakash, r/o 37A/
111A/9 ~~Bundu~~ Madhu Nagar, Agra Cantt.

15. Devendra Singh S/O Sher Singh,
r/o Defence Colony, Agra Cantt.

16. Sajith Kumar C.K. S/O Unni madhvan Nair,
r/o N.Soman resident of 3-Defence Estate,
Agra Cantt.

17. Keshav Deo S/O Purushottam Singh
r/o 117,Manas Nagar,Shahgunj, Agra.

18. Km.Seema Gupta D/O L.C.Gupta,
r/o 184 Defence Estate,Phase I
Bundu Katra, Agra .

19. Manoj Kumar Gupta S/O Kali Charan Gupta,
r/o 37-A/69B/1, Madhu Nagar, Agra.

20. Jashir Singh Makol S/O Kuldeep Singh,Makol
r/o 7/131,Purani Sabzimandi,
Chhipitola, Agra.

21. Km.Nividita Das D/O P.K.Das, r/o 36/144,
Shingho Ka Nagla,Devri Road, Agra.

22. Atin Agrawal S/O Hariom Prakash Agrawal,
r/o 46 Sreetar Colony, Agra.

23 Navin Kumar Kushwaha S/O Jai Raj Das,
C/O M.S.Rathore r/o 128 Defence Estate,
Bundu Katra, Agra.

24. Navin Kumar Khatri S/O K.C.Khatri,
r/o 86 Naulakha,Gwalior Road, Agra Cantt:

25. Vijay Kumar Gupta S/O Naim Chandra Gupta
r/o 37-A/69 Madhu Nagar, Agra.

26. Pankaj Bhalla S/O M.M.Deo Bhalla
r/o F-425, Kamla Nagar, Agra- - - - - - Applicants

C/A Sri U.S.Bhakuni.

Versus

1. Union of India through Secretary,Ministry of
Defence,New Delhi.
2. Director General of Electrical and Mech.Engineering,
Army Headquarters,MGO Branch,DHQ,
P.O. New Delhi.
3. Commandant and M.D.,509 Army Base Workshop
Agra - - - - - - - - - - - - - - - - - - -Respodents

C/R Sri A.Sthalekar

These are 26 applicants who have claimed to have completed their I.T.I. certificate course followed by apprenticeship in Electronics or Radio and T.V. Mechanic and Instrument Mechanics trades. They have sought a direction to the respondents to consider their cases for absorption/employment by giving them preference over direct recruits. The respondents have stated in para 5(j) of their counter reply that interim order of the Tribunal has been complied with and the petitioners have been permitted for the trade tests for which they have applied and that the r esults have been withheld. The arguments of Shri U.S.Bhakuni for the applicant and S/Shri A.Sthalekar and K.P.Singh for the respondents have been heard. The applicants are only entitled to be considered in terms of the criterion mentioned in this order following judgment of the Apex court. The respondents are, therefore, directed to declare the results of the candidates and to grant them preference and age relaxation, if necessary, in terms of this order for appointment, if they are successful in the selection test held by the respondents. Respondents have to comply with this order within 3 months of receipt of a copy of this order from any of the applicants. It may be ascertained that they possess I.T.I. and Apprenticeship certificates granted by N.C.V.T. No order as to costs.

ORIGINAL APPLICATION NO. 165 OF 1997

Km. Meenakshi Shukla D/O Honarary Lietinent R.N.Shukla,
r/o 63 A/41 B Kirti Nagar, New Defence Colony,
Agra Cantt.
C/A Sri R.S.Gupta ---------- Applicant

V/s

1. Union of India, Ministry of Defence, Raksha Bhawan
   New Delhi through its Secretary.
2. Commandant, 809 Army Base Workshop,
   Agra.

3. Regional Employment Exchange Officer,
   Agra.

4. Director, Training and Employment,
   U.P., Lucknow.- - - - - - - - - - - - - - Respondents

C/R Sri K.P.Singh & Sri Amit Sthalekar
& A.K.Gaur.

The applicant in this case has come to the Tribunalfor a direction to the respondents to c all/ invite/absorb the applicant or absorb the applicant in any other base workshop. The applicant has claimed to have obtained I.T.I. certificate from the National counsel of vocational training in Electronics and completed apprenticeship in the same trade. The applicant had been allowed the interim relief of being allowed to appear in the examination for selection with stipulation that the result will not be declared till further orders. The respondents in their counter reply in paragraph 5 (j) have mentioned that the applicant has been permitted for the trade test for which she had applied and that her result has been withheld. The arguments of Shri R.S.Gupta for the applicant and S/Shri A.Sthalekar and K.P.Singh for the respondents have been heard. The applicant is only entitled for consideration of her candidature in terms of this order and, therefore, the respondents, are directed to declare the result and grant her preference/ age relaxation, if required and appoint her, if selected in the selection held on 25th/26th/27th February, 1997. The order shall be complied within 3 months of the receipt of its copy. It may be ascertained that the applicant possesses I.T.I. & apprenticeship certificates granted by N.C.V.T.
No order as to costs.

ORIGINAL APPLICATION NO.166 OF 1997

1. Aninda Bhattacharya S/O C.R.Bhattacharya,
   r/o 196, Defence Estate, Agra.

2. Km.Gunjan D/O Ranvir Singh Chandel,
   r/o 23 Bajrang Nagar Mathura Road,
   Sikandara, AGRA.

3. Hari Om Sharma Pancholi S/O Daulat Ram,
r/o Vill & P.O.Pichuna, Tahsil Rupwas,
Distt:Bharatpur(Rajasthan)now residing at
16/135 Sheetla Gali, Agra.
4. Rajesh Kumar son of Rikhi Ram,
r/o 38/46D Gopal Pura, Gwalior Road,Agra.
5. Jai Ram Gupta S/O Lalta Prasad Gupta,
r/o 37/A/21/5A, New Madhu Nagar, Agra.
6. Dilip Kumar S/O Om Pra kash, r/o 37A/111A/9
Madhu Nagar, Agra- - - - - - - - - - - - - - Applicants

C/A Sri U.S.Bhakuni & Sri A.K.Dave

V/S

1. Union of India through Secretary,Ministry of Defence,
New Delhi.
2. Director General of Electrical and Mech.Engineering
Army HQs,DHQ P.O. New Delhi .
3. Commandant and M.D.,509 Army Base Workshop
Agra. - - - - - - - - - - -Respondents

C/R Shri A. Sthalekar.

This application filed by six applicants seek relief of direction to the respondents to consider the case of the petitioners for appointment/appointment over direct recruits. The applicants have claimed to have done their certificate course from I.T.I. in Electronics/ Radio and T.V. Mechanic course and apprenticeship as Mechanic Radio and Radar Assembly . They had been allowed interim relief to appear at the selection on provisional basis with the stipulation that the results would not be declared till further orders. The respondents have confirmed in para 5(j) of their counter reply that the applicants have been permitted to appear at the trade test to which they have applied and that the results have been withheld. The arguments of Shri U.S.Bhakuni for the applicant and S/Shri A. Sthalekar and K.P.Singh for the respondents have been heard. We direct that the results

be declared and the applicants be allowed preference/ age relaxation in terms of this order, and, if they qualify for appointment, be offered the same. The respondents shall comply with the direction within 3 months of receipt of copy of this order from any of the applicants. It may be ascertained that the applicants possess I.T.I. and apprenticeship certificates granted by NCVT. No order as to costs.

ORIGINAL APPLICATION NO.167/97

1. Kuldeep Shekhari S/O K.K.Shekhari, r/o Nai Awadi (Laturpura) Devri Road, Agra.
2. Nemant Kale S/O Vijay Kale, r/o 32 Kasturi Vihar, Devri Road, Agra.
3. Promod Kumar son of Surendra Singh Rathore, r/o 02/2 Pratap Pura, Agra.
4. Hemant Rakhal son of S.K.Bahal, r/o 9/180, Bagh Muzafarkhana, Agra.
5. Mahesh Chand Sharma S/O Kailash Chand Sharma, r/o Akhand Nagar, Naripura, Tantpur, Road, Agra.

---------- Applicants

C/A Sri U.S.Bhakuni

V/s

1. Union of India throuhg Secretary, Ministry of Defence, New Delhi.
2. Director General of Electrical and Mechanical Engineering, Army Headquarters DHQ P.O. New Delhi.
3. Commandant and M.D., 509 Army Base Workshop, EME, Agra.
4. Regional Employment Officer, Emplyment Exchange Agra.

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C/R Sri Anil Shalkar

This is an application made by five applicants who claim to have completed their I.T.I. certificate course in Radio and T.V. Mechincs or Electronics and have completed apprenticeship as Electronic Mechanic in 509 Army Base Workshop, EME, Agra Cantt. They have sought relief of direction to the respondents for considering their cases for appointment/absorption by giving preference/age relaxation over the direct recruits. The applicants were allowed the interim relief with a direction to the respondents to consider the cases of the applicants for appointment/absorption giving them preference/age relaxation over direct recruits.The respondents have confirmed in para 5 (j) of their counter reply that the respondents have permitted the applicants to appear in the trade tests for which they had applied and have withheld the results of the applicants incompliance with the order of the Tribunal. Arguments of Shri U.S.Bhakuni for the applicant and S/Shri A. Sthalekar and K.P.Singh for the respondents have been heard. The applicants are entitled to be considered for selection in terms of the criterion laid down in this order. Therefore, the respondents, are directed to declare their results by granting them preference/age relaxation in terms of this order and offer them appointment, if selected. Order shall be complied with within a period of 3 months of the receipt of its copy from any of the applicants. It may be ascertained that the applicants possess ITI & apprenticeship certificates granted by N.C.V.T. No order as to costs.

ORIGINAL APPLICATION NO.168/97

1. Rohitash son of Mohan Singh resident of 37 A/63 Madhu Nagar, Bundu Katra, Agra.
2. Chander Vir Singh s/o Chhitar Singh r/o 37A/63 Madhu Nagar, Bundu Katra, Agra.

C/A Sri R.S.GUPTA. - - - - - - - - - Applicants

1. Union of India, Ministry of Defence,
   Raksha Bhawan, New Delhi.through its Secretary.

2. Commandant,
   509 Army Base Worksho p, Agra.

3. Regional Employment Exchange Officer
   Agra. - - - - - - - - - - Respondents

C/R Sri Amit Sthalekar

Two applicants in this application have complet ed Radio and T.V. Mechanic course. They unlike others in this order have not undergone any apprenticeship training. They have claimed for the same benefits as apprentices as also the benefit of Excise Supdt.Malka-patnam V/s K.B.N.Visheshwar Rao and others (1996) 6 SCC 216. They are clearly not entitled to preference or age relaxation in terms of the judgment of the Apex court in U.P.S.R.T.C. and another V/s U.P.Parivahan Nigam Shishukhs Berozgar Sangh and others (Supra). The applicants were allowed to appear in the examination for selection on preferential basis with the stipulation that their results will not be declared till further orders. The respondents have mentioned in para 5(j) of their counter reply that the applicants have been allowed to appear at the trade test for which they had applied and the results have been withheld. Arguments of Shri R.S.Gupta for the applicant and S/Shri Amit Sthalekar and K.P.Singh for the resonts have been heard. Applicants are only entitled to be considered for selection in terms of the judgment in Excise Supdt. Malkapatnam case (Supra) Respondents are, therefore, directed to declare their results and if the applicants have been placed in the said list without being granted preference, offer them appoint-ment on the basis of their rank in the Select list

Applicant in this case had obtained ITI certificate from National counsel of Vocational training in Electronics and, thereafter, done his apprenticeship in the same trade from the Establishment of respondent no.2. Applicant had appeared in the written test held on 25th, 26th was the date of his Practical examination and vivavoce was held on 27.2.1997. The applicant has claimed that his result has not been declared sofar and has also claimed that he should not have been required to appear in the selection interms of the judgment of the Apex court but ~~shall~~ should have been considered for appointment on the basis of seniority maintained yearwise. The applicant has come to this Tribunal for quashing notification dated 22.1.1997 for drawing of seniority of trainee apprentices yearwise and fix the seniority of the applicant and consider him for appointment on the basis of his seniority. Respondents have mentioned in reply that the applicant appeared on being sponsored by the Employment Exchange in the trade test to which he had applied but was declared as having failed. Arguments of Shri A.Sthalekar for the respondents has been heard. We find that this O.A. is clearly misconcieved as the relief claimed by the applicant is not warranted by the judgment of the Apex court.This application is, therefore, dismissed.

No order as to costs.

ORIGINAL APPLICATION NO. 965 OF 1997

Pawan Bhardwaj son of S. C. Bhardwaj,
resident of House No.37/16 Prem Bhawan,
Bundu Katara, Agra.
- - - - - - - - - - - - Applicant

C/A Sri Lalit Sinha

Versus

1. Union of India, Ministry of Defence,
   Raksha Bhawan, New Delhi through
   its Secretary.
2. Commandant, 509 Army Base Workshop,
   Agra. - - - - - - - - - - - - - - - - - -Respondents

C/R Sri Amit Sthalekar.

This is an application in which the applicant has claimed that he has done his I.T.I. course in Radio and T.V. and apprenticeship in Electronics in the establishment of the respondents. He has come to the Tribunal for the relief of quashing the notification dated 22.1.1997 and directing the respondent to draw the seniority list of trainee apprentices yearwise and fix the seniority position of the applicant and, thereafter, appoint the applicant on the basis of his seniority position. The applicant admittedly had appeared in the written test held on 25th.2.1997, practical test on 26.2.1997 and viva-voce on 27.2.1997. He has claimed that his result has not been declared sofar. Respondents in their counter reply have mentioned in para 6(n) that the applicant appeared at the trade test for the post of TOM, but was declared failed. Arguments of Shri Lalji Sinha for the respondents was heard. It is observed that the applicant is not entitled to the relief claimed in terms of the criterion emerged from the judgment of the Apex court in UPSRTC case (Supra). Application is, therefore, clearly misconcieved and is dimissed as lacking in merit. No order as to costs.

ORIGINAL APPLICATION NO.38 OF 1998

Bhupendra Singh son of Sohan Singh,
R/O 37/2090 Nagla Bhoori Singh,
Bundu Katra, Agra - - - - - - - - - - - - - Applicant

C/A Shri U. S. Bhakuni.

Versus

1. Union of Ind,a Ministry of Defence,
   Raksha Bhawan, New Delhi through
   its Secretary.
2. Director General, Electrical & Mechanical
   Engineering, Army Headquarters, D.H.Q.,
   P.O. New Delhi.
3. Commandant, 509 Army Base Workshop
   Agra. - - - - - - - - - - - - - Respondents

C/R. . . . . .

In this application, the applicant has sought the relief of setting aside the notification dated 22.1.1997, directing the respondents to draw up seniority list year-wise and fix the seniority position of the applicant and affer him appointment on the post of TCM to the applicant based on his seniority position. Applicant has mentioned that he had appeared at the selection held on 25th February, 1997 for written test, on 26th February, 1997 for Practical test and on 27th February 1997 for Viva-voce. He has claimed that his result has not been declared. The respondents have mentioned in their counter affidavit that this case may be heard alongwith other similar cases. They have not mentioned as to the outcome of the candidature of the applicants. The applicant claims that he is not required to appear at the selection in terms of the judgment of

of the apex court in the case of U.P.S.R.T.C.(Supra). Arguments of Sri U.S.Bhakuni for the applicant and Shri A. Sthalekar for the respondents have been heard. The relief as claimed by the applicant is not admissible on the basis of the judgment of the Apex court as analysed in this order. However, the respondents, are directed to deal with the claim of the applicant in terms of criterion given in this order within three months from the date of receipt of a copy of this order.

No order as to costs.

ORIGINAL APPLICATION NO.123/98

Pravendra Kumar son of Laxman Singh,
R/O 64/24, Tal Firoz Khan,
Agra. - - - - - - - - - - - - Applicant

C/A Sri U. S. Bhakuni.

Versus

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

2. Director General, Electrical & Mechanical
Engineering, Army Headquarters,
New Delhi.

3. Commandant, 509 Army Base Workshop,
Agra. - - - - - - - - - - - - Respondents

C/R Sri Amit Sthalekar.

This is an application filed by the applicant claimed to have done apprenticeship in Electronics Mechanic in addition to Radio and T.V.

Mechanic and apprenticeship in the same trade from the Establishment of the respondents and seeks a direction to the respondents to set aside the notification dated 22.1.1997 and draw up seniority list year-wise and fixing the seniority position of the applicant for the post of T.C.M. and offer him appointment on the basis of his seniority position. Applicant has mentioned that he has appeared at the selection held on 25.2.1997 for written test, on 26.2.1997 for Practixal test and on 27.2.1997 for Viva-Voce test. He has claimed that his result has not been declared so far. The respondents have mentioned in their counter affidavit that this case may be heard alongwith other similar cases. They have not mentioned as to the outcome of the candidature of the applicants. The applicant has also mentioned that inview of the judgment of the Apex court in U.P.S.R.T.C., case (Supra), the applicant does not require to appear in any selection test. Arguments of Sri U. S. Bhakuni for the applicant and Sri Amit Sthalekar for the respondents have been heard. We have already mentioned the criterion laid down and, therefore, the relief as claimed by the applicant is not sustainable. The respondents are directed to deal with the claim of the applicant in terms of the criterion in this order within three months from the date of receipt of a copy of this order .

No order as to costs.

J.M. A.M.

SQI