

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 16th day of JANUARY 2004.

Original Application no. 1384 of 1998.

Hon'ble Maj Gen K.K. Srivastava, Member-A
Hon'ble Mr. A.K. Bhatnagar, Member-J

Anil Kumar Pawar, S/o Sri Karan Singh,
R/O House no. 35 Dantal,
MEERUT.

... Applicant

By Adv : Sri B.D. Mandhyan
Sri S.C. Mandhyan

V E R S U S

1. Union of India through Secretary,
Ministry of Defence,
NEW DELHI.
2. Director General of E.M.E., M.G.O. Branch,
Army Headquarters, D.H.O. Post Office,
NEW DELHI.
3. The Commandant, 510 Army Base Workshop,
Meerut Cantt.,
MEERUT.

... Respondents

By Adv : Sri P. Mathur
Sri G.R. Gupta

O R D E R

Maj Gen K.K. Srivastava, Member-A.

In this O.A., filed under Section 19 of the A.T. Act, 1985, the applicant has prayed for direction to respondent no. 3 to appoint the applicant on the post of Engineering Equipment Mechanic as per call letter dated 17.10.1998 on priority basis over untrained candidates as he is a trained apprentice.

2. The facts of the case, in short, are that the applicant, being ITI Diploma holder, was permitted for practical training from 03.06.1991 to 01.06.1993 under Apprenticeship Training Act, 1961. He successfully completed the training and approached respondents no. 3 several times for regular appointment. By letter dated 17.10.1998, issued by respondent no. 3, the applicant was required to appear for trade test to be held on 16.11.1998. Though the applicant, having completed two years apprenticeship training, was not required to appear in the trade test on 16.11.1998., respondent no. 2 refused to take his trade test on the ground that he had become over age. The case of the applicant is that he had preferential right to be appointed on the post of Mechanic and is also entitled for relaxation in age. The applicant has pleaded that he has to be given preference being a trained apprentice, as per law laid down by the Apex Court. Besides the applicant was well within age limit when he completed his apprenticeship training. However, the respondents have denied him the appointment. Aggrieved with the same the applicant has filed this OA, which has been contested by the respondents by filing counter affidavit.

3. Sri B.D. Mandhyan, learned counsel for the applicants submitted that the action of the respondents is illegal and against the Rules of Ordnance Factories Group 'C' and 'D' Industrial Post Recruitment Rules dated 1.11.1994 (Annexure to the amendment application) (in short Rules). Perusal of the column 7 of schedule establishes the maximum age as 30 years. The respondents have incorrectly and illegally laid reliance on Article 51 Para 40(2) of CSR Vol. II.

4. Resisting the claim of the applicant, Sri P. Mathur, learned counsel for the respondents submitted that as per Article 51 para 40 (2) of CSR Vol II, the maximum age prescribed for general candidates is 25 years and in the instant case after giving relaxation for Apprenticeship training i.e. for a period of two years, the applicant became over age (Date of birth being 17.03.1967) on 16.11.1998 i.e. the schedule date for trade test for Engineering Equipment Mechanic.

5. We have heard learned counsel for the parties, considered their submissions and perused records.

6. The applicant has annexed the copy of Rules dated 1.11.1994 as annexure to the amendment application. We have carefully gone through the same. In the said rules the maximum age prescribed for highly skilled grade workmen is 30 years. These are the statutory rules and the administrative instructions on which the respondents have placed reliance, cannot supersede the same. Therefore, in our opinion prima facie it appears that the action of the respondents is not in accordance with rules on the subject.

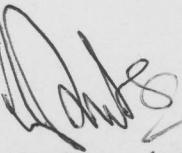
7. For the aforesaid reasons, we are of the considered opinion that the interest of justice shall be better served, if the case of the applicant is remitted back to respondent no. 2 i.e. Director General of E.M.E., Army Headquarters, New Delhi to reconsider the entire issue as per extant rules and pass a detailed and reasoned order within a specified time.

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8. In the facts and circumstances the OA is finally disposed of with direction to respondent no. 2 to reconsider the case of the applicant in the light of extant rules on the subject within a period of three months from the date of communication of this order and pass detailed and reasoned order ^{within} ~~in~~ accordance with law.

9. There shall be no order as to costs.


Member (J)


Member (A)

/pc/