

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

ALLAHABAD.

...

original Application No. 1573 of 2004.

this the 16th day of December, 2004.

HON'BLE MR. JUSTICE S.R. SINGH, V.C.

HON'BLE MR. D.R. TIWARI, MEMBER (A)

Sri Anil Kumar Panwar, S/o Sri Karan Singh, H.N. 35, Dantal,
Meerut.

... Applicant.

By Advocate : Sri V.P.S. Tyagi.

Versus.

1. Union of India through Secretary, Ministry of Defence,
South Block, New Delhi.
2. The Director General of EME, MGO's Branch, HQ HQ,
P.O. New Delhi.
3. The Commandant, 510, Army Base Workshop, Meerut
Cantt.
4. The Commandant, Headquarters Base Workshop Group EME
Meerut, Cantt.-1 ... Respondents.

By Advocate : Sri Saumitra Singh.

ORDER

BY JUSTICE S.R. SINGH, V.C.

Heard the counsel for the applicant and perused
the O.A.

2. The applicant instituted O.A. no. 1384 of 1998 for
issuance of a direction to the Commandant, 510 Army Base
Workshop, Meerut Cantt, Meerut, to appoint him on the post
of Engineering Equipment Mechanic as per call letter
dated 17.10.1998 on priority basis over untrained candidates
as the applicant happens to be trained apprentice.

3. The O.A. was contested by the respondents inter alia
on the ground 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 giving relaxation for Apprenticeship training i.e. for a period of two years, the applicant was over aged as on 16.11.1998 i.e. the schedule date for trade test for Engineering Equipment Mechanic. The Tribunal relying upon certain rules notified on 1.11.1994 held that the maximum age prescribed for highly skilled grade workman was 30 years and the administrative instructions on which the respondents ~~were~~^{had} relied upon, would not supersede the statutory rules. The Tribunal, however, directed ~~to~~^{the} the Director General of E.M.E., Army Headquarters, New Delhi, to re-consider the entire issue as per extant rules and pass a detailed and reasoned order within a period of three months from the date of communication of the order.

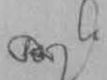
4. Consequent upon the directions given by the Tribunal, the impugned order dated 10.7.2004, communicated to the applicant vide letter dated 23.7.2004 (Annexure A-1) came to be passed thereby holding that 1994 Rules have no application in the corps of EME as the same pertains to the Ordnance Factories Group 'C' and 'D' industrial posts. The applicant, according to the said rules, has been held to be over aged by four years and eight months on the cut off date. The learned counsel for the applicant has, however, contended that even ~~in~~^{the} 1982 rules as amended by SRO 1/88 provides for relaxation, which power has not been exercised in the case of the applicant. A perusal of Recruitment Rules called as Engineering Equipment Mechanic Rules, 1988 would indicate that power of relaxation is vested with the Central Government as per para 6 of the Rules, according to which, where the Central Government is of opinion that it is necessary or expedient so to do, it may, by order and for reasons to be recorded in writing, relax any of the provisions of these rules with respect in any class or category of person. The applicant does

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not appear to have approached the Central Government and in the earlier case, direction was given by the Tribunal to the Director General, E.M.E., MGO' Branch, AHQ, DHQ, P.O. New Delhi for considering the matter. Since the power of relaxation is vested with the Central Government, we are of the considered opinion that the ends of justice would be met ^{or if the O.A. is disposed of with the direction &} that incase the applicant prefers a representation to the Central Government requesting for relaxation in age limit and ^{& regard &} make out the proper grounds in that the Central Government ^{shall &} take appropriate decision with regard to the claim of the applicant for relaxation in age limit in accordance with law within a period of four months from the date of receipt of copy of such representation alongwith a copy of this order.

5. The O.A. stands disposed of as above with no order as costs.


MEMBER (A)


VICE CHAIRMAN

GIRISH/-