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OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 07th day of DECEMBER 2007

Original Application No. 1471 of 2005.

Hon'ble Mr. K.S. Menon, Member (A)

Nagendra Pal, S/o Jashrath Singh, Ex casual gangman under PWI/N. Railway, Mainpuri, R/o Village Nauli, Post Pilkhana, Distt: Firozabad.

. . . Applicant

By Adv: Sri S. Ram

V E R S U S

1. Union of India through General Manager, North Central Railway, Headquarters Office, Allahabad.
2. Divisional Railway Manager, N.C. Rly., DRM's Office, Allahabad.
3. Sr. DEN (C)/DSE/(C), NC. Railway, Divisional Office, Allahabad.
4. Sr. DEN III, NC Railway, Divisional Office, Allahabad.

. . . Respondents

By Adv: Sri P. Mathur and Sri Anil Kumar

O R D E R

The facts leading to this OA are that the respondents had issued a notification dated 17.12.2005 in which applications from ex-casual labours were invited for considering appointment for Group 'D' post. The applicant had submitted his application in response to the said notification. He states that he has, however,

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not been called for the screening test which is going on w.e.f. 16.11.2007 onwards. It is, however, seen that the persons junior to him have been called for the said screening test including those who are over-aged. Being aggrieved by this action of the respondents the applicant submitted representation dated 20.10.2007, which is yet to be decided. He further seeks direction to the respondents to permit him to appear in the said screening test. Applicant's counsel has cited following orders in support of his contention:

- a. Indra Pal Yadav & Ors Vs. U.O.I. & Ors : 1985 SCC (L&S) 526
- b. OA No. 866/06 (Ernakulam Bench of this Tribunal) : V.A. Chandran and Others Vs. U.O.I. & Ors
- c. Shanker K. Mandal Vs. State of Bihar (CA No. 916 and 1524 / 1999)
- d. Union of India & Ors Vs. Ajai Kumar & Ors (WP No. 217999/06)
- e. Punjab and Haryana High Court : HSEB Panchkula and others Vs. Raghbir Singh
- f. 1998 (6) SCC 626 : Govt. of Orissa and another Vs. Hamichal Roy and another
- g. 2006 SCC (L&S) 753 : Secretary, State of Karnataka and others Vs. Uma Devi
- h. 2006 (6) SCC 310 : Exploration Corporation Employees Union Vs. Mineral Exploration Corporation Ltd and others
- i. Hon'ble Allahabad High Court : Union of India through Sr. Divl. Electrical Engineer Northern Railway, Allahabad Vs. Raj Bahadur Singh and others (WP No. 30015/06)

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2. It is seen that the applicant was over-aged at the time he applied for the said test. Applicant's counsel states that there are provisions in the Rule and Manual (para 115 (iv) of IREM Vol. I) which permits the respondents to relax the age rule in such cases.

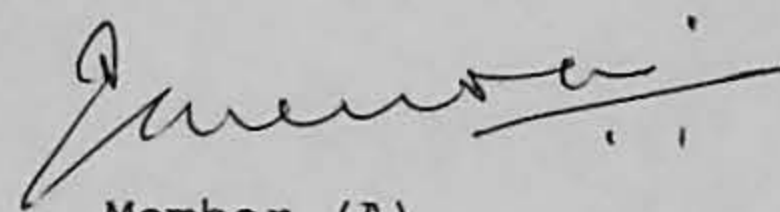
3. Respondents' counsel, however, refutes the above contention stating that the normal upper age limit in such cases have already been relaxed to 40 years in the case of general, 43 years in the case of OBC and 45 in the case of SC/ST as per para 115 (iv) of IREM Vol. I and since the applicant does not come within this age limit he is not eligible to appear in the screening test and hence, he has not been called for the said test. Respondents' counsel has cited following orders in support of his contention:

- a. OA No. 1172/03 : Ajai Kumar Vs. U.O.I. & Ors
- b. Secretary State of Karnataka Vs. Uma Devi & Others

4. The two counsels have adopted divergent stands arising ^{from} ~~of rules has been shown~~ out of the same set of rules with regard to relaxation of upper age limit and since the applicant had already submitted his representation which is yet to be considered by the respondents, it would be

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in the interest of justice that the ~~the~~^g respondents be directed to consider the representation of the applicant (treating the OA as part of the representation) and in case he fulfills all the eligibility conditions for appearing in the said screening test in accordance with the latest rules of the Railway Board and other applicable judicial pronouncements he may be permitted to appear in the said screening test. I direct accordingly. The OA is disposed of accordingly. No cost.



Member (A)

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