

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

T.A. 355/86  
(O.S. 7/84)

Moinuddin Ansari

...Plaintiff

versus

Union of India & others

...Defendants.

Hon. Mr. Justice K. Nath. Vice Chairman.  
Hon. Mr. K. Obayya, Adm. Member.

(Hon. Mr. K. Obayya, A.M.)

Suit No. 7/84 instituted in the court of Munsif, Hawali, Bareilly, has been received in this Tribunal on transfer under section 29 of the Administrative Tribunals Act, 1985 and registered as T.A. 355/86. The prayer in this suit is for a direction to defendants 1 to 5 to appoint the plaintiff to the post of L.D.C. in preference to defendants 6, 7 and 8. ~~xxxxxxxxxxxxxxxxxxxx~~.

2. The case of the plaintiff is that he was appointed as civilian class IV employee (Laskar) on 23.7.1971 in the Air Force station, Bareilly. Being a matriculate, he was eligible for appointment to the post of L.D.C. The posts of L.D.Cs in the Department were filled up by the open recruitment by selection from the candidates drawn from Employment Exchange; 10% of the posts of LDCs were, however reserved to be filled up by the Departmental candidates by a qualifying test limited to departmental candidates who satisfied the prescribed educational, and age etc. conditions. In 1982, applications were called for filling up the posts of LDCs in the open direct recruitment. The plaintiff as also the defendants 6, 7 and 8 appeared for this qualifying test. They were declared qualified and put in the list of selected candidates. The plaintiff was placed at serial No. 4 while defendants 6, 7 and 8 were placed at serial Nos 1, 2 & 3.

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The select list was submitted to the higher authorities. However, it was not acted upon and no appointment orders were issued.

3. The contention of the plaintiff is that defendants 6,7 and 8 were not eligible for appointment as they were either over-age or not having the prescribed minimum service. The age relaxation is available upto 35 years of age to such candidates in the department with three years of service, <sup>provided</sup> and their names are sponsored by the Employment Exchange. The plaintiff was within the age limit and as such was eligible for appointment while defendants 6,7 and 8 whose names were not sponsored from Employment Exchange, were <sup>not</sup> eligible for age relaxation and consequently, their selection was irregular.

4. The suit is contested by the defendants 1 to 5 who have filed the written statement in which they have admitted the facts relating to the appointment of the plaintiff as a Laskar and also his appearance at the qualifying test. They have denied the other contentions of the plaintiff.

5. According to them, there were 4 vacancies of IDCs to be filled up in open recruitment. 9 candidates were called and 4 persons were selected for 4 vacancies and the remaining 5 were put in the stand by list. Among 4 selected candidates No. 1 candidate was outsider and the candidates in merit 2 to 4 were defendants 6,7 and 8. The plaintiff was placed at serial No. 6 in the merit list of 9 candidates. They have denied the allegations regarding ineligibility of respondents 6,7 and 8 on ground of overage. It is stated that the defendants 6,7 and 8 being departmental candidates were given benefit of service <sup>to be</sup> deducted from their age and after such deduction, they were found to be coming within the age limit. It is also stated that none of the departmental candidates including the plaintiff were sponsored by the Employment Exchange and as such

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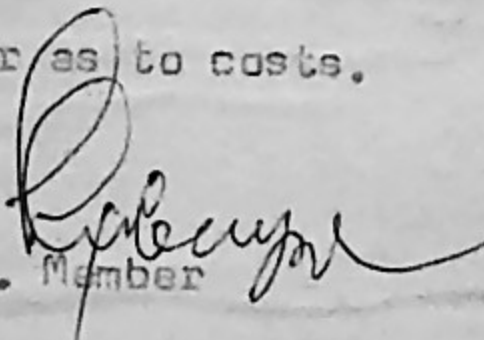
the relaxation of age upto 35 years of age was not applicable to their cases. The plaintiff was also the defendants 6,7 and 8 were Matriculates and they were all permitted to appear in the qualifying test. It is further stated that though defendants 6,7 and 8 were selected, no appointments were made from the select list.

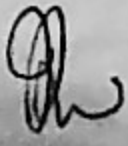
6. We have heard the learned counsel for both the parties and also perused the record. It is admitted on both sides that the vacancies of L.D.Cs to be filled up by direct recruitment quota and not meant for promotion of the departmental candidates. The record also shows that defendants 6,7 and 8 as also the plaintiff were allowed to take the qualifying test. In this qualifying test, one Shri Chandrapal Singh was placed at serial No. 1, defendant No. 6 is at serial No. 3 and defendant No. 7 is at serial No. 4, the plaintiff is at serial No. 2 in the waiting list. The record also shows that this list was not accepted and was not acted upon. No benefit was given to either parties. The main controversy in this suit appears to be with regard to eligibility or otherwise of the plaintiff vis-avis the defendants 6,7 and 8. There are instructions issued from time to time. According to these instructions, age relaxation to serving group D employees is available only against 10% vacancies reserved for promotion of departmental candidates by limited qualifying test. It is also noticed that the age limit has been relaxed upto 35 years of age for the departmental candidates appearing in direct recruitment, <sup>if their names are sponsored by Employment Exchange</sup> As no decision has been taken to act upon the select list and make appointments, We are of the view that there is no cause of action to the plaintiff. Even if the defendants are not eligible on consideration of over-

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age, the plaintiff also will be over-age because his name has also not been sponsored by the Employment Exchange. The plaintiff and defendants 6, 7, 8 stand on same footing so far as this aspect is concerned; if it is held that they are eligible for age relaxation then, the defendants 6, 7, 8 have better case, being in the select list of 4 candidates, while the plaintiff is at no. 2 in the waiting list. As the posts were meant to be filled up by open recruitment and competent authority has considered that plaintiff and defendants 6, 7, 8, were not entitled for age relaxation, it was decided not to accept the recommendations of the selection committee.

In these circumstances <sup>case</sup> we are of the view that there is no merit in the suit and accordingly it is rejected with no order as to costs.

  
Adm. Member

  
Vice Chairman

Allahabad : Dated

September 7, 1990.