

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH: ALLAHABAD.

ALLAHABAD, THIS THE 25th DAY OF AUGUST, 2005

QUORUM: HON. MR. K.B.S. RAJAN, J.M.

ORIGINAL APPLICATION NO.07 OF 2002

Bachchan Lal, son of Shri Chhote Lal Kushwaha, R/O 86,
Himmatganj, Allahabad.

..... Applicant.

Counsel for applicant : Shri C. Prakash.

Versus

1. Union of India through Ministry of Defence, Govt. of India, New Delhi.
2. Engineer in Chief, Army Headquarters, New Delhi.
3. Commander Works Engineer, Military Engineering Services, behind High Court, Allahabad.

..... Respondents.

Counsel for Respondents : Sri P.D. Tripathi.

ORDER (Oral)

HON. MR. K.B.S. RAJAN, J.M.

Admitted facts of the case are as under.

The applicant had worked as Casual Labour for a period of 445 days spread over during the period from 1983 to 1986. This had given him the benefit of being called for a trade test for the post of Mazdoor for which call letter was sent in Dec., 1987 asking him to appear in the trade test in January, 1988. Result of the trade test was announced and the applicant's name figured in the list. While a few from the select list were offered the appointment to various group 'D' post, the case of certain persons had to be considered for regularization of the age limit as, on the date of their screening, they were over age. Provision, however, exists for grant of such relaxation. However, as luck would have it, there was a general ban imposed by the Government, which could be relaxed only in 1994. It was thereafter that the case for relaxation of age was to be taken up with the Army Hqrs.

2. As per the applicant, apart from the above admitted position, he had approached the respondents for

his appointment when he was assured clearly that his case has been referred to the Hqrs. for age relaxation. It was as late as on 9.1.2001 that the applicant had made a representation giving the full details and requested the respondents to offer him the appointment of Mazdoor for which he stood selected long back. This communication from the applicant having not been responded to, this O.A. has been filed.

3. The respondents have contested the O.A. The preliminary objection taken by them is inordinate delay in approaching the Tribunal. As regards merits of the case, it has been contended by the counsel for respondents that the general instructions on engagement of casual labour is contained in order dated 7.6.1988 and the case of the applicant does not fit in the same.

4. From both the sides authorities in support of their cases were cited. In so far as the respondents are concerned, they have referred to the following orders :-

- A. Order dated 21.1.2002 in O.A. No.1191/97.
- B. Order dated 12.2.2002 in O.A. No.1182/97.

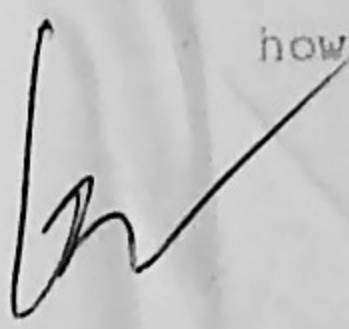
The orders cited by the respondents are distinguishable from the case of the applicant.

5. As regards the applicant he has relied upon the following orders :-

- A. Order dated 25.4.1994 in O.A. No.893/91.
- B. Order dated 25.4.1994 in O.A. No.892/91.
- C. Order dated 2.12.1999 in O.A. No.1235/95.
- D. Order dated 20.5.2005 in O.A. No.1003/01.

6. Arguments were heard. Documents perused and I have given my anxious consideration.

7. First, the preliminary objections raised by the respondents is that the selection having taken place in 1988, the applicant has come up as late as in 2002, is the contention of the counsel for respondents. The applicant, however, had moved an application for condonation of delay

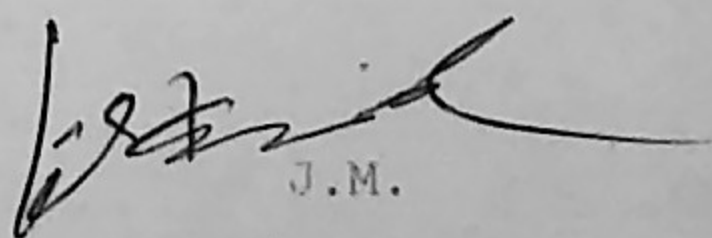


vide M.A. No.4411/04 wherein he has reflected reasons for his not having filed the O.A. on time. Being satisfied, the reasons given, the delay is condoned.

8. As regards merits of the case, order dated 7.6.1988 relates to appointment of casual labourers and their regularization. The instant case does not come within the ambit of that order. In the case of the applicant, he was called for a separate trade test and on the selection, the authorities were to offer him the appointment but due to imposition of ban they could not consider his case for appointment. By the time, the ban was relaxed in 1994, the respondents observed that certain relaxation of age limit was required in a few cases including that of the applicant. The case was under consideration but no results could be out. Such a situation had taken place given in other cases including the one decided in O.A. No.1003/01. The said order dated 20.5.2005 squarely applies to the case of the applicant as well. As such, it would be in the interest of justice if the same order is extended to the applicant in this O.A. as well.

9. Accordingly, this O.A. is allowed. The respondents are directed to appoint the applicant to the post for which he had qualified the trade test and in relaxation of rules relating to age limit would also be given. The applicant is entitled to only notional seniority and notional fixation of pay from the date when other similarly situated and selected were initially appointed, in accordance with the merit list. This order shall be complied within a period of six months from the date of communication of this order.

No order as to cost.


J.M.

Asthana/