

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 1033 of 2003

Allahabad this the 31<sup>st</sup> day of August, 2004

Hon'ble Mr. A.K. Bhatnagar, Member (J)

Alel Singh, Son of Shri Amar Singh, R/o Village  
Dhandhupura, Post Office Dhandhupura, District  
Agra.

Applicant

By Advocate Shri R.N. Sharma

Versus

1. The Union of India through the Secretary, Ministry of Defence, New Delhi.
2. Director General of Resettlement, Ministry of Defence, R.K. Puram, New Delhi.
3. The Commandant, Central Ordnance Depot, Agra Cantt., Agra.
4. Zila Sainik Kalyan Evam Punarvas Office, Agra through Zila Sainik Kalyan Evam Punarvas Officer, Agra.

Respondents

By Advocate Shri Ashok Mohiley

O R D E R ( Oral )

By this O.A. filed under Section 19 of the Administrative Tribunal Act, 1985 the applicant has prayed for direction to respondents to permit/continue the applicant on the post of Mazdoor in Central Ordnance Depot, Agra Cantt., Agra in pursuance of the appointment letter dated 14.07.2000 issued by respondent no.3 Commandant Central Ordnance Depot, Agra Cantt. Agra, and to pay salary with all emoluments since 29.08.00 or pass such other and further order as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

2. The brief facts ~~as~~<sup>giving</sup> rise to this O.A. as per the applicant are that he was recruited as Soldier(Sipahi) in the Armed Force by the Selection Board on 18.09.87. His services were discharged by the Board on 22.02.92 on medical ground while working on the post of Signal Man. In pursuance of the advertisement published in the Weekly Rozgar Sangrah dated 04 to 10th February, 2000, The applicant applied for the post of Mazdoor in C.O.D., Agra. Thereafter, applicant received a call letter from respondent no.3 for physical test and interview on 18.05.2000 along-with requisite documents. The applicant was declared successful in the test, result of which is annexed as annexure-4. Thereafter, applicant has received letter of appointment dated 14.07.00 by respondent no.3 directing him to report the Depot immediately in connection with the employment as Mazdoor(Civ.) In pursuance of appointment letter the applicant went to join his duties on 29.08.2000 but instead of permitting him to join the duties, he was not allowed to join. Vide letter dated 08.09.2004, the respondent no.3 issued a letter to Zila Sainik Kalyan Awam Punarwas Officer, Agra intimating that the applicant is over age by one year two months and one day for the post of Mazdoor therefore, he is not eligible to be appointed on the post of Mazdoor. Thus, action of the respondents in not providing him the post of Mazdoor, treating him as over age, is against the extant rules. Learned counsel for the applicant submitted that in the advertisement published in Rozgrah Sangrah, Agra (February 4th to 10th), the age limit for ex-soldier given in Col.(Ga)(iii) was 18 to 25 years plus period

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of service in Army plus 3 years(maximum 45 years) as such, applicant was within the age limit and was legally eligible for the post of Mazdoor under respondent no.3. The applicant has claimed that action of the respondents in not <sup>appointing</sup> ~~marking~~ him on the post of Mazdoor on the ground of age limit, is erroneous, therefore, impugned order is liable to be set aside.

4. Learned counsel for the applicant has submitted that age limit of general category is relaxed upto 45 years whereas the age of applicant comes 34 years, 7 months and 10 days. <sup>learned counsel for the</sup> ~~applicant~~ <sup>applicant(s)</sup> Therefore, applicant claimed that ~~his~~ appointment as Mazdoor is just and proper.

5. Resisting the claim of the applicant, respondents have filed counter-affidavit and in rebuttal of which rejoinder affidavit is filed by the applicant reiterating the facts as mentioned in the O.A.

6. Inviting my attention to paragraph nos.4, 6, 19, 21, 22 and 25 of the counter-affidavit, learned counsel for the respondents has submitted that the applicant applied for the post of Mazdoor in the year 2000 under Ex.Serviceman quota. He was selected for the post of Mazdoor and was called for documentation vide Depot letter dated 22.05.2000, filed as annexure C.A.-1. During the scrutiny of documents filed by the applicant, it was revealed that he was not eligible for the post of Mazdoor due to overage. He was medically boarded out from the Indian Army after rendering 4 years 5 months 11 days service. His age on 15.02.2000 was 33 years 7 months and 10 days whereas as per rules he should have been 32 years 05 months and 11 days of age (25 years + service rendered in army + 3 years), therefore, applicant

cannot be appointed on the post of Mazdoor and he was intimated by the respondents accordingly. A letter dated 14.01.2000 was issued to the applicant for calling him for completing necessary papers for medical and other requirement, which are mandatory for the post of Mazdoor. It was only a call letter and not appointment letter. The applicant had not applied under the category of physically handicapped quota but under the ex-serviceman quota. The applicant was never appointed on the post of Mazdoor but he was declared ineligible for the post due to overage and the respondents have done nothing wrong in rejecting the candidature of the applicant for appointment on the post of Mazdoor.

7. I have heard the rival contention of learned counsel for the parties and perused the record.

8. Admittedly, applicant applied for the post of Mazdoor after being discharged by the Board on 29.02.92 on medical ground from the post of Signaller as a <sup>small</sup> ~~small~~ part of his index finger was amputated. It is also not disputed that he rendered 4 years, 5 months and 11 days service in the Army before being boarded out on medical ground. I have also perused the advertisement published in Weekly Rozgar Sangrah, Agra, filed as annexure-3, in which it is clearly written in Column (Ga) (iii) Ex-Serviceman-18-25 years plus service rendered in Army plus 3 years (maximum 45 years). If we add this period of the applicant according to Column (Ga) (iii), then, it comes to 33 years, 7 months and 10 days only, <sup>whereas</sup> ~~as~~ per rules he should have been



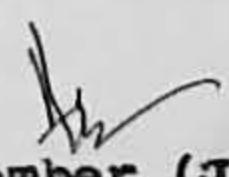
32 years, 05 months and 11 days of age, which shows that the applicant was certainly over age at the time of selection for the post of Mazdoor. In para-6 of the rejoinder affidavit, the applicant has also admitted that he was about 34 years, 7 months and 10 days only. I have also perused the letter dated 14.07.2000 (annexure-1), which reads as under:-

"Please report this depot immediately in connection with your employment in this depot.

Please note no TA/DA will be paid."

9. After perusal of <sup>the</sup> above letter, it is clear that it was not an appointment letter, as claimed by the applicant. It was only a letter issued to the applicant under process for appointment, which could not <sup>be</sup> materialised due to the fact that the applicant was found over age.

10. In view of the above, I find no merit in the case of the applicant as no illegality has been committed by the respondents in not appointing the applicant on the post of Mazdoor as he was found over age. The O.A. is dismissed accordingly. No order as to costs.

  
Member (J)

/M.M./