

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
 AHMEDABAD BENCH
 XXXXXXXXXKXKX

O.A. No. 32/ 1989
 XXXXX

DATE OF DECISION 19.09.1989.

Shri. Mukundrai J Harsh Petitioner

Mr. B.B.Gogia Advocate for the Petitioner(s)

Versus

Union of India & Others. Respondent

Mr. J.D.Ajmera Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P. M. Joshi .. Judicial Member.

The Hon'ble Mr. M. M. Singh .. Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

Shri. Mukundrai J Harsh
Hindu, Adult, Occu:Unemployed
Add: 155, Municipal Quarters
Near Shastri Nagar,
Rajkot.

... Applicant.

(Advocate: Mr. B.B.Gogia)

Versus.

1. Union of India
Through: Secretary
Ministry of Finance
(Central Excise)
Government of India,
New Delhi.

2. Asstt.Collector of Central Excise,
Dr. Yagnik Road,
Near Ramkrishna Ashram,
Rajkot.

... Respondents.

(Advocate : Mr. J.D.Ajmera)

CORAM : HON'BLE MR. P. M. JOSHI

.. JUDICIAL MEMBER.

HON'BLE MR. M. M. SINGH

.. ADMINISTRATIVE MEMBER.

O. A. 32/89

: O R A L O R D E R :

Dt. 19.9.89.

Per : Hon'ble Mr. P. M. Joshi .. Judicial Member.

The petitioner Shri. Mukundrai J Harsh of Rajkot has filed this application under Section 19 of the Administrative Tribunals Act, 1985. He has challenged the validity of the action of the respondents; whereby his services as 'FARASH' are terminated with effect from 29.9.88 by verbal order. According to him as he has been engaged as 'FARASH'

since 4.10.82, he is entitled to be regularised as Class 'D' Group employee. He has therefore prayed that the impugned order be quashed and set aside, and the respondents be directed to regularise his services in Group 'D' post by relaxing upper age limit, or any other technical grounds, if any, from the due date.

2. The respondents have filed their reply opposing the application filed by the petitioner. It is contended inter alia that the petitioner has not exhausted the remedy available to him under the rules. According to them, the petitioner was engaged by the Asstt. Collector, and he has been continued on daily wages vide ~~✓~~ orders dt. 1.3.83, 23.3.83 and 6.1.86. It is therefore submitted that his discontinuance is in accordance with the terms of appointment order. It is further submitted that the age of the petitioner on 30.8.86 i.e. ~~on the day which his case was in~~ ~~on the date of considering his case for~~ regularisation was 31 years and 4 months and after deducting the period for which he has worked i.e. 3 years and 9 months, his age came to 27 years and 7 months and consequently, he was age barred for more than 2 years. However, it is stated that his services could not be regularised due to over age. But, in view of the revised guidelines issued by the Department of the Personnel and Training, New Delhi, the particulars of applicant have also been included alongwith two other similarly situated cases, have been sent in the information submitted to the Board On 5.1.89.

3. When the matter came up for admission, we have heard Mr. B.B.Gogia and Mr. J.S.Yadav for Mr. J.D.Ajmera, the learned counsel for the petitioner and respondents respectively. During the course of his arguments, it was stated by Mr. Yadav that, he has failed to furnish the

relevant materials and documents in terms of the order dt. 1.8.89. The letter under reference dt. 11.5.88 was shown to us ^{✓ our} for perusal. But we do not find any merits in the action of the authority, in refusing to consider his (petitioner's) representation on the simple ground that ~~petitioners~~ of the duration of the past services were not supplied by him. As a matter of fact, the orders which the respondents have referred to in ~~this~~ ^{their} reply, the particulars called for are available ~~form~~ from the records which are in possession of the respondents themselves.

4. When the matter came up for admission, on 10.8.89, we had directed the respondent to furnish revised guidelines and information sent to the Board on 5.1.89 referred to on page 5 of the reply and place the same on record with a copy to the petitioner within a fortnight. Mr. Yadav, however, concedes that the information and the documents are not placed on record, and undertakes to supply such information and record. However, in view of the pleadings of the parties it will be in the fitness to admit this application, and at the same disposed the same by the following directions, which we propose to pass the matter is restricted for relief in terms of regularisation by granting relaxation in age. It is stated by the respondent that the required information have been already furnished to the Board on 5.1.89. It will be therefore in the ends of justice that the competent authority is directed to decide the entire claim of the petitioner including his grievance against the termination and regularisation.

5. We therefore pass the following order :-

In the light of the facts and circumstances of the case stated above, in the first instance, it is