

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH, AHMEDABAD.

(1)

M.A./O.A./P.A./ 7 / 1989

H P Dar

Applicant(s).

B B Gogia

Adv. for the  
Petitioners.

Versus

union of India & Ors

Respondent(s).

J D Ajmera

B R Kyada

Adv. for the  
Respondents.

N S Shende, Advocate for the  
Respondents.

P.W. 485.

S.R. NO	DATE.	ORDERS.
	7/3	Regularisation (Copy not served) - RPAs received from applicant. - RPAD received from resp. No. 5, 1, 2.
	7/3/89	Mr. B.B. Gogia has sent leave note. Mr. B.R. Kyada present. The case is adjourned to 11/4/89 for admission.
		<i>Clerk</i> A. V. Patel Deputy Registrar (1) Central Administrative Tribunal, Ahmedabad Bench.
		- V.P. filed by Mr. N.S. Shende, Advocate for resp. No. 485.
	8/3	Pl. issue notice reg. date & fees to applicant/s only.
	11/3/89	Mr. B.R. Kyada states that Mr. B.B. Gogia is not well and requested for time. Mr. J.D. Ajmera and Mr. N.S. Shende have no objection. Admitted. Adjourned to 25/4/89 for admission.
		<i>Clerk</i> A. V. Patel Deputy Registrar (1) Central Administrative Tribunal, Ahmedabad Bench.
	12/4	Pl. issue notice reg. date & fees to applicant/s only.

Pl. issue notice reg. date & fees to  
applicant/s only.

Shri Haresh P. Dave,  
 'PRANAM',  
 9, Station Plot,  
 Gondal.  
 (Advocate - Mr. B.B. Gogia)

.. Applicant

Versus

1. Union of India, through  
 Secretary,  
 Ministry of Home Affairs,  
 New Delhi.
2. Registrar General & Census-  
 Commissioner for India,  
 Ministry of Home Affairs,  
 Personnel & Administrative Reforms,  
 Govt. of India,  
 New Delhi.
3. Divisional Engineer,  
 Telegraphs,  
 Rajkot.

(Advocate-Mr. J.D. Ajmera)

4. Chairman,  
 Railway Recruitment Board,  
 Divisional Office Compound,  
 Bombay Central Division,  
 Western Railway,  
 Bombay.

5. Chairman,  
 Railway Recruitment Board,  
 Railwaypura P.O.,  
 Ahmedabad - 380 002.

(Advocate-Mr. N.S. Shevde)

.. Respondents

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

Hon'ble Mr. P.S. Chaudhuri : Administrative Member

O R A L - O R D E R

25/04/1989.

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

In this application filed by the petitioner,  
 Shri Haresh P. Dave (D.O.B. 24/8/1957), under section  
 19 of the Administrative Tribunals Act, 1985, <sup>he</sup> has  
 prayed that the respondents be directed to consider  
 the applications which he had submitted for employment  
 to the respondents No. 3, 4 and 5, without subjecting  
<sup>to</sup> him any written test or interview and on the basis of

Om

the service record of 6 months in the Census Department  
- he should -  
and be offered appointment order relaxing the upper age  
limits as to the due date, with all the consequential  
benefits. According to Mr. B.B. Gogia, the learned  
counsel for the petitioner, he has filed a fresh  
application in terms of the observations made by the  
Tribunal in it's decision in O.A./176/88 dated 28.6.1988  
which reads as under :-

" A proper application can be considered  
only if the petitioner brings out a case  
against the recruiting agencies to whom he  
has approached with an application and in  
response no reply has been issued or his  
case has not been considered. This will of-  
course be subject to limitation. In the  
meantime, the petitioner may make a fresh  
application and the respondent authorities  
may consider drawing the attention of the  
Central Recruitment Agencies and State  
Govt. regarding the claim of the petitioner  
for employment in terms of the relaxation  
indicated at Annexure IV - No. 1106-NCEII/  
51-71 (clause II) dt. 12.5.1972.

While we do not admit the application  
for the aforesaid reasons, we feel that,  
the respondent authorities may consider  
steps for tightening <sup>up</sup> of the implementation  
of the instruction to the recruiting agencies  
of not only the State Govts. but also the  
Central Govt. offices."

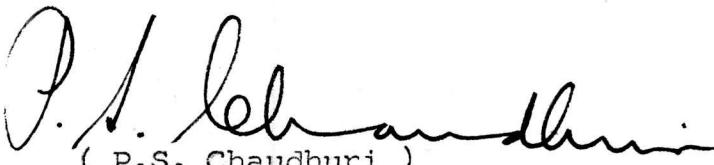
2. The respondents i.e. Assistant Directorate of  
Census Operations, Gujarat, Mr. M.I. Patel and Mr.  
M.V. Arunachandran, Member, Secretary, Railway Recruit-  
ment Board, have filed their reply and objected against  
the admission of the petition. It is contended inter -  
alia that the candidates who do not fulfil the  
prescribed age limit even after taking into considera-  
tion of the age concession allowed in respect of the  
Retrenched Census employees in the Department concerned,  
they might not have considered the candidature of the  
applicant. Only age relaxation was permissible for  
Retrenched Census employees. Qualifications, marks

to be obtained, merit etc. are to be fulfilled by the candidates according to the recruitment rules of the concerned departments and it cannot be relaxed. It is upto the concerned department whether to call for interview or not.

3. During the course of arguments Mr.B.B.Gogia the learned counsel for the petitioner has invited our attention to the fact that he had made three applications ; (1) dated 24.8.1982, for the post of Telephone Operator (2) for the post of Clerk to the Railway Service Commissionon 24.8.1983 and (3) on 18.10.1983 for the post of Accounts Clerks Grade I. It is conceded that he had not received any reply from ~~concerned~~ the recruiting agency. ~~concerned~~. The grievance of the petitioner is that when he made the application for the employment, he has not been considered by the employment agencies.

4. Admittedly, the grievance of the petitioner arose in the year 1982 and 1983. It is significant to note that the petitioner had thereafter filed an application CA/176/88, before this Tribunal, precisely on the same set of circumstances and had sought relief for redressal of his grievance. Having taken into account the instructions contained in the letter dated 12.5.1972, in its application to the case of the petitioner, while dismissing the application, we observed that the petitioner may make a fresh representations to the Central or State Recruiting agencies and they may dispose the same by considering the instructions governing him regarding his claim for employment in terms of relaxation of age. It is significant to note that the case of the petitioner is not that he had moved any agency for any employment after the year

1983. If he had any grievance against the concerned agencies he could have made a grievance in the application (OA/176/88) which he had ~~filed~~ earlier. In case he has failed to do so, he is deemed to have waived the same. By filing this application the petitioner has made an attempt to re-agitate the same plea by merely citing the instances of his attempts in seeking employment in this application. In our opinion he can not be allowed to re-agitate <sup>the</sup> same grievance as ~~it~~ it will be barred by res judicata. Even his repeated representations can not keep the cause alive. The application is otherwise barred by limitation and cannot be entertained. The application is devoid of merits and accordingly it is rejected at the stage of admission.

  
( P.S. Chaudhuri )  
Administrative Member

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( P.M. Joshi )  
Judicial Member