

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

Now
calling
for indecisive

O.A. No.
~~Case No.~~

364 OF 1992.

DATE OF DECISION 02.03.1993.

Shri Hasan Habib Nagori Petitioner

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

Versus

Union of India and Ors. Respondent

Shri Akil Kureshi Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.V.Krishnan : Vice Chairman

The Hon'ble Mr. R.C.Bhatt : Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

Hasan Habib Nagori,
Adult, Occ : Service,
Add : Qtr. No.2,
Sadar Idgah Masjid,
Bhilvas,
RAJKOT - 360 001.

...Applicant.

(Advocate : Mr.B.B.Gogia)

Versus

1. Union of India
Through : It's Secretary,
Telecom Department,
NEW DELHI.

2. General Manager,
Telecom District,
6th Floor,
Jasani Building,
Near Girnar Cinema,
RAJKOT.

...Respondents.

(Advocate : Mr.Akil Kureshi)

O R A L O R D E R

O.A.NO. 364 OF 1992.

Dated : 02.03.1993.

Per : Hon'ble Mr.N.V.Krishnan : Vice Chairman

The applicant possesses a driving licence and
is
also satisfy the recruitment conditions, including
the upper age limit, as specified in the notification
for selection of driver, issued on 13.1.1990 (Annexure-A/5).

In response to the Annexure-A/5, notification, the
applicant submitted his application (Annexure-A/6)
on 08.02.1990.

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2. It is alleged that, instead of continuing and completing the selection proceedings, in pursuance of the Annexure-A/5, notification, the Department issued subsequently another notice on 06.04.1992 (Annexure-A/8) inviting the application for the same posts of driver.

3. However, by this date, the applicant became over aged. Therefore, he submitted a representation on 17.8.1992 (Annexure-A/10), to the General Manager, Telecom District, Rajkot, placing before him the above facts and stating that he has again filed an application in April, 1992, in response to the Annexure-A/8 notice. He also states in the representation that he is over aged by 7 months, with reference to the cut off date 1.7.1991, indicated in the Annexure-A/8 notice, and he has sought for an age relaxation. As there was no reply to the representation, the applicant has filed this original application for a direction to the respondents to consider his case along with cases of other eligible candidates for being considered in response to the Annexure-A/8 notice and after giving him the benefit to age relaxation.

4. Notice was issued to the respondents. Shri Akil Kureshi, standing counsel appeared for the respondents. It was put to him whether the proper direction in this case, in the interest of justice should not be that the applicant's prayer be allowed and, that he should also be considered on merits. He

sought time for taking instructions. In the meanwhile, by an interim order, one post of Driver has been kept vacant which is to be filled up only after the disposed of this case.

5. The respondents have filed a reply in which it is stated that upper age limit is as ^{on} 1.7.1991. The respondents cannot be faulted in, considering the ^{not} application of the applicant. ^{as he was overaged.}

6. We have considered the matter. We are of the view that it is for an administrative reason-whatever that be-the earlier proceedings which commenced with Annexure-A/5 notice could not be completed. Admittedly, the applicant was within the age limit with reference to that notice of selection. His candidature would have been considered ~~had~~ it not been postponed. It is also clear that there were vacancies then and normally the recruitment should have been completed. It is only due to a fortuitous circumstance~~s~~ that the selection proceedings had to be postponed and fresh notice had to be issued on 6.4.92 (Annexure-A/8). In the meanwhile, the applicant became age barred. We are therefore, fully ^{in the} satisfied that, interests of the applicant has to be protected by giving a direction to the respondents to grant him age relaxation, now required and to consider his case on merits. This would not have been needed if the only notice issued was Annexure-A/8 and the earlier proceeding initiated by Annexure-A/5, had not been

8
initiated or
postponed.

7. We notice from para 7 of the reply of the respondents that a meeting of DPC had been held on 23rd September, 1992, and the eligible candidates had been considered. It is now, therefore, necessary for a review DPC to consider the claim of the applicant ~~as well~~ along with the conclusion earlier.

8. In this view of the matter, we dispose of this application with a direction to the second respondent to convene a meeting of the review DPC for the purpose of selection of driver pursuant to the Annexure-A/8, notice in which the applicant should be called for interview after granting him the necessary age relaxation, and the review DPC shall consider his case for a selection as Driver in accordance with law. The second respondent, is further directed to pass, within a period of three months from the date of receipt of this order, the final orders in accordance with law, after considering the recommendation of the Review DPC. The application is disposed of with no order as to costs.

Renu
(R.C.Bhatt)
Member (J)

Dec 2.3.93
(N.V.Krishnan)
Vice Chairman