

12

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No.182 of 1989.

Date of decision: August 1, 1989.

Prasanna Kumar Sahoo, aged about years,
s/o Swapaneswar Sahoo, Vill-Satakudia,
P.O.S.N.Path, Via-Baramba, Dist-Cuttack at present
working as Draftsman (Mechanical) T-11-3 in the
Office of the Central Rice Research Institute,
Cuttack-753006. Dist-Cuttack.

...

Applicant.

Versus

1. Union of India, represented by the Secretary to Govt. of India, Department of Agriculture and Research, At-Central Secretariat, Parliament Street, New Delhi-110001.
2. President, Indian Council of Agriculture Research, Krishi Bhawan, New Delhi-110001.
3. The Director, Central Rice Research Institute, At-Bidyadharpur, P.O.Cuttack-753006. Dist.Cuttack.
4. Senior Administrative Officer, Central Rice Research Institute, At Bidyadharpur, P.O.Cuttack-753006, Dist.Cuttack.

...

Respondents.

For the applicant ... Mr.R.B.Mohapatra, Advocate.

For the Respondents... Mr.A.B.Mishra,
Senior Standing Counsel (Central)

C O R A M :

THE HON'BLE MR.B.R.PATEL, VICE-CHAIRMAN

A N D

THE HON'BLE MR.N.SENGUPTA, MEMBER (JUDICIAL)

-
1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
 2. To be referred to the Reporters or not ? No
 3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.
-

JUDGMENT

B.R.PATEL, VICE-CHAIRMAN, Briefly stated, the facts are that the applicant was a Senior Draftsman at Nagpur under M/s. Manganese Ore (India) Ltd which is a Government of India undertaking when an advertisement was issued in the local newspaper, The Samaj dated 2.3.1984 inviting applications from eligible candidates for several posts lying vacant in the Central Rice Research Institute (CRRI), three of which were Draftsman (Mechanical). The applicant applied for one of the posts, his application was duly scrutinised and he was called for an interview. He was finally selected and appointed as Draftsman (Mechanical) vide order dated 22.5.1985 (Annexure-2 5). On his selection, he resigned his post in M/s. Manganese Ore (India) Ltd on 12.6.1985 and joined the new post under the CRRI on 19.6.1985. To his consternation, however he received a memo from the Senior Administrative Officer, CRRI, 14 days after his appointment that his joining report had not been accepted as on scrutiny of his application it had been found that he was overaged. The Senior Administrative Officer further informed him that his appointment order dated 22.5.1985 had been treated to have been cancelled. The same day i.e. on 3.7.1985 the applicant made a representation addressed to the Respondent No.3 whereupon Respondent No.4 allowed the applicant to continue as Draftsman (Mechanical) till final order was passed on the representation. Subsequent to the representation of 3.7.1985, the applicant has represented on 9.7.1985, 15.7.1985 and 5.9.1985 but to no effect. On



31.7.1985 the Senior Administrative Officer vide his order No.1836/Admn.II dated 31.7.1985 (vide Annexure-A-11) asked the applicant to withdraw his resignation from M/s.Manganese Ore (India) Ltd. but as is clear from Annexure-A-12 which is a copy of the letter bearing No.TAP/CH/85-86/2060 dated 12.6.1985 issued by the Sr.Mine Manager,Chikla Mine, that by then his resignation had been accepted by the authorities of M/s.Manganese Ore (India) ltd. In view of this, the applicant could not withdraw his resignation. The Director, CRRI, who is the appointing authority issued an Office Order bearing No.CA-89/8 dated 2.5.1989 giving notice to the applicant to the effect that his services shall stand terminated with effect from the date of expiry of a period of one month from the date on which the said notice is served. On receipt of this order, the applicant moved this Tribunal and the Tribunal by their order dated 8.5.1989 stayed operation of the aforesaid order of the Director, CRRI.

2. The respondents in their counter affidavit have maintained that on scrutiny of his application, the applicant was found to be overaged and as such there was no other alternative left for them but to issue notice vide Annexure-A-19.

3. We have heard Mr.R.B.Mohapatra, learned counsel for the applicant and Mr.A.B.Mishra, learned Senior Standing Counsel (Central) for the respondents and perused the relevant records. Mr.Mohapatra has admitted that the applicant was overaged in terms of the advertisement issued

Am

vide Annexure-2. Relevant portion of the advertisement having bearing on this, reads as follows :

" For all posts the maximum age limit is 30 years as on 1.1.84 which is relaxable by 5 yrs in the case of SC/ST candidates. There will be no age limit for ICAR employees. "

Mr. Mohapatra's contention is that since the applicant was working under a Government of India undertaking and the CRRI is a similar organisation, his past services should be taken into account and the age limit prescribed should be relaxed. According to Mr. Mohapatra, the applicant has put in 18 years of service as Draftsman (Mechanical).

Further contention of Mr. Mohapatra is that on being duly appointed he resigned from his former post and it is too ^{him} late to direct to vacate the post on the ground of overage.

In case, his age is not relaxed the applicant will be ^{cause him much} out of employment which will ~~be much~~ hardship which he does not merit in view of the circumstances. Mr. A. B. Mishra, learned Senior Standing Counsel (Central) on the other hand, submitted that all the representations made by the applicant have been duly forwarded to the competent authority, i.e. Indian Council of Agricultural Research.

Mr. Mishra further submitted that for not having properly scrutinised the application of the applicant before giving him the offer of appointment, two officers of the CRRI namely one Superintendent and the Administrative Officer have been proceeded against and have been penalised. In view of this, Mr. Mishra submits that the CRRI is not in a position to give any relief to the applicant. On hearing

Arora

learned counsel for both sides, and considering the circumstances in which the offer of appointment was made to the applicant and also considering the fact that if his appointment is not regularised the applicant will be out of employment because on his present age it would not be possible for him to get an employment, we are of the view that it is a fit case in which the relaxation of age should be considered by the competent authority. It is not the fault of the applicant that his application was not properly scrutinized at the stage when it should have been scrutinised. For the fault of the Superintendent and the Administrative Officer, the applicant should not be punished. Moreover, the applicant had not suppressed any information in regard to his actual age. The applicant mentioned his actual age and when he got the appointment he only presumed, as has been averred by Mr. Mohapatra that the competent authority in fact relaxed his age. We would, therefore, hold that in the peculiar facts and circumstances of the case, the applicant imminently deserves relaxation of age limit and his appointment should not be terminated. To do anything will be iniquitous. We hope, it will be possible for the competent authority to find a way to regularise the appointment of the applicant by relaxing the age limit.

4. The application is accordingly disposed of leaving the parties to bear their own costs.

N. SENGUPTA, MEMBER (J)

I agree.

Central Admn. Tribunal,
Cuttack Bench, Cuttack.
August 1, 1989/Sarangi.



.....
Vice-Chairman

.....
Member (Judicial)