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CENTRAL ADMINISTRATIVE TRIBUNAL

CUTTACK BENCH: CUTTACK

Original Application No. 365 of 1990

Date of decision: January 22, 1992.

J.W.Abraham and six others Applicants

-Versus-

Union of India and others Opp. Parties

For the applicant : M/s R.V.Rao, B.V.B.Das,
Advocates.

For the respondents : Mr.D.N.Mishra, Standing Counsel

CORAM:

THE HONOURABLE MR. K.P.ACHARYA, VICE CHAIRMAN

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 His Lordships wish to see the fair copy of the judgment? Yes.

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JUDGMENT

K.P. ACHARYA, V.C.: In this application under section 19 of the Administrative Tribunals Act, 1985, the Petitioners (seven in number) pray to quash the advertisement contained in Annexure-1 dated 13th August, 1990.

2. Shortly stated, the case of the Petitioners is that they are retired Railway Employees except Petitioner Nos. 4 and 6. Vide notice dated 13th August, 1990, applications were invited from the children of railway employees, who have retired on superannuation or voluntarily after 1.1.1987 or will be retiring from service by 31.12.1993 for enrolment of fresh faces as substitutes for utilisation against day to day casualities. The grievance of the Petitioners is that no specific date should have been fixed or in other words the eligibility of the intending candidates for filing of such applications should not have been confined to particular dates. Hence according to the Petitioners, there is a violation of Articles 14 and 16 of the Constitution.

3. In their counter, the Opposite Parties maintain that the application should be dismissed as under the Rules, joint application is ~~not~~ maintainable only when permission is accorded by the Bench on
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an application filed by the Petitioners. No such application has been filed. The case should be dismissed.

4. Neither the Petitioners are present during the course of hearing nor their counsel. I have heard Mr. D.N.Misra learned Standing Counsel for the Railway Administration and I have also perused the pleadings of the parties and the relevant documents.

5. Mr.Misra learned Standing Counsel submitted that the Government has a right to fix the minimum and maximum age for entering into a Government Service. Therefore, the cut-off date fixed is well within the discretion of the Competent Authority and such date having been mentioned in the notice (Annexure-1), in no circumstances it violates Articles 14 and 16 of the Constitution. I have given my anxious consideration to the argument advanced by Mr. Misra. While fixing the minimum and maximum age of the intending applicants, the concerned authority must have taken into consideration the possibility of a particular aspect relating to the possibility of minimum age of a particular retired Government employee. That apart this aspect lies completely within the discretion of the Competent Authority and could be interfered with only when there is violation

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of the Constitutional provisions or any other law ^{for the} time being in force. There is no averment in the pleadings of the Petitioners that any law in force has been violated. I have also found that there is no violation of Articles 14 and 16 of the Constitution. In such circumstances, I find no illegality to have been committed by the concerned authority in issuing the advertisement contained in Annexure-1.

6. Apart from the above, ^{as provided,} Rule-4(5) (b) of the Central Administrative Tribunals (Procedure) Rules, 1987, has not been followed. This is an application filed by seven petitioners jointly. No application has been filed asking for permission to join together and file this application. Hence the Tribunal has not passed any orders permitting the Petitioners to join together and file a single application. Therefore, the provisions contained in the aforesaid rule stands ^{the case} vitiated and ^{is} liable to be dismissed.

7. For the reasons stated above, I find no merit in this application which stands dismissed leaving the parties to bear their own costs.


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VICE CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack/K. Mohanty.