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(9)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL;  
CUTTACK BENCH: CUTTACK.

Original Application No. 512 of 1992.

Date of Decision: 22.7.93

Trinath Majhi

Applicant (s)

Versus

Union of India & others

Respondent(s).

( FOR INSTRUCTIONS )

1. Whether it be referred to reporters or not ? *No*
2. Whether it be circulated to all the Benches  
of the Central Administrative Tribunals or not ? *No*

  
MEMBER (ADMINISTRATIVE)

22.7.93

  
VICE-CHAIRMAN.

22.7.93

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(10)

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For the applicant:-

M/s.D.M.Mishra  
B.B.Das.  
P.K.Rath

(Advocates).

For the Respondents:

Mr.Ashok Mishra  
Senior Standing Counsel.

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CORAM.

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

AND

THE HONOURABLE MR.H.RAJENDRA PRASAD, MEMBER (ADMN.)

...

(11)

JUDGMENT.

MR.K.P.ACHARYA, VICE-CHAIRMAN.

In this application under section 19 of the Administrative Tribunals Act, 1985 the petitioner prays for declaration that he is entitled to get the job of Light Motor Vehicle Driver in All India Radio, Jeypore, as a departmental candidate and a declaration that if any appointment is made to the post of Driver by virtue of interview conducted on 27th March 1992 is bad and illegal.

2. Shortly stated the case of the petitioner is that he was appointed as Khalasi on 24th September 1969 in All India Radio, Jeypore and posted at Jeypore. The petitioner is in possession of a valid driving licence bearing No.781 of 1983. On getting an information that the post of a driver was likely to <sup>fall</sup> vacant in All India Radio, Jeypore, the petitioner, vide Annexure-1 dated 9th January, 1991 filed an application for giving an appointment to the petitioner as a Driver. Prayer in the said application was renewed vide Annexure-2 dated 13th March, 1991. The petitioner received a communication from Opp.Party No.3 that the petitioner would be allowed to compete in the interview, provided that he fulfills the requisites qualification as contained in the Rules. The petitioner attended the interview on 27th March 1992.

3. The petitioner's case was not considered as he had <sup>appeal</sup> crossed the age limit i.e. 40 years. Hence

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this application has been filed with the aforesaid prayer.

4. In their counter the Opposite Parties maintained that as per rule, 5 years relaxation in respect of age barred was given to the petitioner being a departmental employee, and still then the petitioner had crossed the upper age limit and, therefore, the competent authority had no option left but to reject the candidature of the petitioner. It is further maintained in the counter that the case is <sup>devoid</sup> void of merit is liable to be dismissed.

5. We have heard Mr. Ashok Misra, learned Standing Counsel, ~~and~~ with his assistance, we have perused the pleadings of the parties. The fact that the case of the petitioner was not considered, though he appeared at <sup>an</sup> interview <sup>is evident</sup> from his own admission at Paragraph-4(h)&(i) of the petition. The only question which ~~is~~ remains to be determined, as to whether the petitioner was within the age limit. In Schedule 25 of Recruitment Rules, for various posts in All India Radio contained in Annexure-1 it would be found against Sl.No.8 as follows:-


" Age limit for direct recruitment -  
Between 18 and 30 years (relaxable  
for government servants upto 5 years  
in accordance with the instructions  
issued by Central Government".

The petitioner admits in Paragraph-4(i) that the petitioner was aged 40 years at the relevant time. According to the Opposite Parties the petitioner was aged 30 years at the time of selection. The petitioner was aged 40 years and relaxation of five years was granted to him by virtue

of which he still suffers from age bar, because after relaxation only the candidates who <sup>has</sup> have reached the age of 35 years can be legitimately considered. After giving this relaxation, when the petitioner still suffers from <sup>dis</sup> ~~his~~ qualification of his age, the competent authorities had no discretion to be used in favour of the petitioner and they were duty bound to act <sup>by</sup> ~~upon~~ accordingly to rules. Therefore, we find no merit in this application which stands dismissed leaving the parties to bear their own cost.

  
MEMBER (ADMN.)

22.7.93.

  
VICE-CHAIRMAN.

22.7.93.

Central Administrative Tribunal,  
Cuttack Bench, Cuttack/ Hossain.

