

9

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK**

**ORIGINAL APPLICATION NO. 82 OF 2006**  
**CUTTACK, THIS THE ~~30~~<sup>30th</sup> DAY OF JUNE, 2008**

Sri Susant Kumar Rath ..... Applicant


Vs

Union of India & Others ..... Respondents

**FOR INSTRUCTIONS**

1. Whether it be referred to reporters or not ?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

(K. THANKAPPAN)  
MEMBER (JUDL.)

  
(C.R. MOHAPATRA)  
MEMBER (ADMN.)

9  
**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK**

**ORIGINAL APPLICATION NO. 82 OF 2006**  
**CUTTACK, THIS THE ~~30~~<sup>30</sup> DAY OF JUNE, 2008**

CORAM :

HON'BLE MR.JUSTICE K.THANKAPPAN, MEMBER(J)  
HON'BLE MR. C.R.MOHAPATRA, MEMBER(A)

\*\*\*\*\*

Sri Susant Kumar Rath, aged about 32 years, son of Sudananda Rath,  
At/P.O- Itamati, Dist. Nayagarh, at present working as Airman,  
Indian Air Force, PL No. 750886-L, 2255 Sqn. (Dett), C/o.8FBSU,  
C/o.56 APO.

.....Applicant

Advocate(s) for the Applicant- M/s. B.R.Sarangi, L.Bhuyan.

**VERSUS**

1. Union of India represented through Secretary, Ministry of Personnel, Public Grievances and Pension, Department of Personnel and Training, New Delhi.
2. Regional Director (ER), Staff Selection Commission, Department of Personnel & Training, 5, Esplanade Row West, Kolkata-70001.
3. Deputy Director, Staff Selection Commission, Department of Personnel & Training, 5, Esplanade Row West, Kolkata- 70001.

..... Respondents

Advocates for the Respondents – Mr. B.Dash, S.B.Jena (ASC).

.....

2

## ORDER

HON'BLE MR.C.R.MOHAPATRA, MEMBER(A)

Being aggrieved with the rejection of his candidature by the Staff Selection Commission, Kolkata for appointment to the post of Section Officer (Audit) in the office of the Controller and Auditor General, the applicant has filed the O.A. with the prayer:-

“ 8(i) .....quash the memorandum dated 17.11.2005 under Annexure-8 issued by respondent no.3 and issue necessary direction to consider his appointment for recruitment to the post of Section Officer(Audit) pursuant to the examination conducted in 2005 in conformity with the advertisement issued in Annexure-5 within a stipulated period of one month from the date of passing of the order.”

Applicant has also made a prayer for interim relief seeking a direction that one post of S.O. (Audit) may be kept vacant till the final outcome of the O.A.

Records reveal that no such interim relief was granted except that an order dated 27.1.2006 was passed as under:-

“ Respondents should take note of the fact that in the event of success of the Applicant, they will be bound to provide an employment in the post of S.O.(Audit).”

The applicant had applied for the post of S.O.(Audit) through SSC, Kolkata in response to an advertisement in the Employment News dated 19-25.02.2005 (Annexure-A/4). Though, he was called for interview, it was

12 ✓  
found that he had become over age, as on 01.01.2005 as his date of birth was 15.7.1974. According to Clause 4(A) age limit was prescribed as 18-27 as on 1.1.2005 (Relaxable for Central Govt. servants upto 5 years as per extant Govt. rules). The applicant contends that he has been disqualified in an arbitrary manner in violation of Article 14 of the Constitution and he has been wrongly denied the relaxation of age, which is available according to clause 4(D) of the advertisement. Therefore, he has challenged the decision of the authorities at Annexure-A/8, wherein he has been intimated that relaxation of age is not admissible in his case as he was not holding a civil post under the Central Govt. and was employed with the Indian Air Force.

Heard the parties.

In the counter, Respondents have clarified that the applicant was not entitled to the relaxation clause in the matter of age in as much as relaxation has been extended to the Central Govt. Employees as per Rule-5 of the Central Civil Services and Civil Posts (Upper Age Limit for Direct Recruitment) Rules, 1998. The serving Armed Forces personnel are not incorporated to be in the entitled category to whom age concessions are admissible. It has been also brought out in the counter that under clause 4(A) of the advertisement, it was clearly mentioned that the age relaxation of 5 years to Central Govt. employees would be given strictly as per extant Govt. Rules. The extant Govt. Rules include the Rules of 1998 as mentioned above. As the applicant is a combatant member of Indian Air Force, he is not holding a civil post, hence he is not entitled to any age relaxation as admissible to a Central Govt. employee. In their counter, the

12

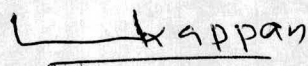



3  
Respondents have also cited decision of the Principal Bench, New Delhi in O.A.No. 1592/05 filed by S.K.Srivastava and others vs Union of India and others (Annexure-R/1) wherein vide order dated 4.8.2005, the O.A. was disposed of with the direction as under:

“ We cannot loose sight of statutory rules which do not permit age relaxation to serving Armed force Personnel. As applicants are not holder of civil posts, they are not covered under the purview of the Act. Accordingly, this Original Application is dismissed.”

The present case is squarely covered by the above decision of the Principal Bench of the Tribunal. Hence the rejection of the candidature of the applicant on the ground of being over age is fully justified and there is no ground for interference by this Tribunal.

Accordingly, this O.A. stands dismissed. No order as to costs.

  
(K.THANKAPPAN)  
MEMBER (JUDL.)

  
(C.R.MOHAPATRA)  
MEMBER (ADMN.)