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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 236 OF 2007
Cuttack, this the 16th day of November, 2009


Bijay Kumar Sahoo... Applicant


Vs.

Union of India & Others ... Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not?
2. Whether it be circulated to Principal Bench, Central Administrative Tribunal or not?


(C. R. MOHAPATRA)
ADMN. MEMBER


(K. THANKAPPAN)
JUDICIAL MEMBER

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CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO. 236 OF 2007
Cuttack, this the 16th day of November, 2009

CORAM:

Hon'ble Mr. Justice K. Thankappan, Member (J)
Hon'ble Mr. C.R. Mohapatra, Member (A)

.....
Bijay Kumar Sahoo, S/o-Late Pathani Ch. Sahoo, At/Po-
Baladavan, Via-Anandpur, Dist-Keonjhar, Pin-758021.

..... **Applicant**
By the Advocate(s) Mr. S.K. Panda

Vs.

1. Union of India, represented through Chief Postmaster General, Orissa Circle, Bhubaneswar-75100, A/Po-Bhubaneswar, Dist-Khurda.
2. Superintendent of Post Offices, Keonjhar Division, Keonjhar-758001, At/Po/Dist-Keonjhar.

..... **Respondents**
By the Advocate(s)..... Mr. U.B. Mohapatra, SSC

ORDER
(ORAL)

HON'BLE MR. JUSTICE K. THANKAPPAN, MEMBER(J)

Heard Mr. S.K. Panda, Ld. Counsel for the applicant and Mr. U.B. Mohapatra, Ld. Sr. Standing Counsel for the Union of India and perused the materials on record.


2. The applicant at present is working as Gramin Dak Sevak Mail Carrier (in short, 'GDSMC'), Anandpur M.D.G. In response to the notification issued by the



Respondent-Department for filling up the post of Postal Assistant for the year 2005 against the unfilled Departmental Quota vacancies offered to GDS of the Recruiting Units/Division, he submitted his application, with necessary documents, as according to him, he was eligible for the post in question. But he did not receive call letter/hall permit for appearing at the Examination scheduled to be held on 05.08.2007. On enquiry, he could come to know that he was considered overaged. In the above background, the applicant has filed this O.A. with the following prayer:-

- “ i) The Hon'ble Tribunal may graciously be pleased to direct the respondents more particularly the Respondent No.2 to treat the applicant within the age prescribed in the letter under Annexure-1 for the recruitment to Postal Assistant cadre by treating the year 2005 to be the crucial date for calculating the age limit within a stipulated period.
- ii) Any other appropriate order/orders as the Hon'ble Tribunal deems fit and proper may be passed.

3. The Respondent-Department have filed their counter opposing the prayer of the applicant. This matter came up for admission on 07.08.07. This Tribunal, while admitting the O.A. and directing notice to the Respondents, held that since the scheduled date for appearing at examination was over, the prayer for interim relief had become infructuous.



4. Having regard to the submissions made by the parties, the short point to be considered is whether the applicant is entitled to age relaxation to make him eligible for selection. In other words, whether the age of the applicant could be determined with reference to the year of vacancy, i.e., 2005.

5. It is the case of the applicant that as per the settled principles of law the age limit should be determined with reference to the year when actually vacancy arose, but not the year when recruitment is held. Also it has been submitted that had the test/interview been conducted in the year 2005 when vacancies arose, the applicant, coming within the age limit would have been eligible to appear at the said examination. Therefore, it has been alleged that the Respondent-Department deliberately with a view to discarding the applicant and favouring the near and dear ones who were not eligible during 2005, notified the vacancies to be filled in the year 2007.

6. We have considered the above submissions of the applicant in the light of the counter filed by the Respondent-Department. The maximum age limit prescribed for the GDSs for selection to the post of Postal Assistant is 28 years in case of candidates belonging to OC, 33 years for SC/ST and 31 years for OBC, and no age relaxation is permissible. Be that as it may, the date of birth of the applicant is 01.06. 1974. According to him, if his age is taken into account up to the year 2005 when vacancies arose, he will be within 31 years of age years as prescribed for OBC candidate.

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Therefore, the submission of the applicant is that had the test/interview been conducted in the year 2005 when vacancies arose, he would have been within the prescribed age limit. It has been stipulated in Annexure-A/1 notification dated 15.04.2007 that the GDSs who are within 28 years of age (35 years for SC/ST and 31 for OBC) as on the crucial date fixed for direct recruitment of the same year are eligible to apply. (emphasis supplied). The Respondents have stated in paragraph 7 of their counter that vide notification/letter dated 05.04.2007 applications were invited for filling up the vacancies in the cadre of PA/SA on direct recruitment basis for the year 2005, wherein the cutoff date was prescribed as 15.05.2007, i.e., the last date of receipt of applications from the candidates. The Respondents in support of their statement has produced the said letter dated 05.04.2007 as Annexure-R/3. This statement of the Respondents has not been refuted by the applicant by filing rejoinder or any other document. The applicant's date of birth being 01.06.1974, there is no infirmity in the decision of the Department holding the applicant ~~overaged~~, his age being more than 31 years by 15.05.2007. This cutoff date (15.05.2007) is applicable in the case of the applicant and other similarly placed persons as per the stipulation contained in the letter dated 15.04.2007 (Annexure-A/1) in response to which he made the application. The applicant has not produced any other circular/instructions of the Department under which he is entitled to the age relaxation.

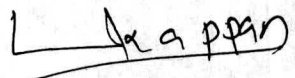


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7. In consideration of all the above, we hold that the applicant has not been able to make out a case for the relief sought for by him. In the result, the O.A. is dismissed. No costs.


(C. R. MOHAPATRA)
ADMN. MEMBER


(K. THANKAPPAN)
JUDICIAL MEMBER

K.B.