

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. No. 351 of 1996

Present : Hon'ble Mr. Justice S.N. Mallick, Vice-Chairman
Hon'ble Mr. B.P. Singh, Administrative Member

1. Ajoy Kumar Dubey, s/o Sri Ram Behari Dubey of 7, Baidyanath Dey Mullick Lane, P.O. and P.S. Birlabazar, Calcutta-700007 ;
2. Nehar Ranjan Seal, s/o Sri Nirod Ranjan Seal of Dharsa Govt. Colony, P.O. G.I.P. Colony, P.S. Jagacha, Dist. Howrah-711321 ;
3. Gurudas Sarker, s/o Sri Sankar Sarkar of Dharsa Pal Para, P.O. G.I.P. Colony, P.S. Jagacha, Dist. Howrah - Pin-711321 ;
4. Jagannath Atta, s/o Sri Becharam Atta of 47, Sridhar Roy Road, P.O. Tiljola, Calcutta-700 039.

..... Applicants

-vs-

1. Union of India, service through the Secretary, Ministry of Urban Development, Directorate of Printing, Govt. of India, New Delhi ;
2. The Manager, Government of India Press, Publication Unit, Santragachi, Howrah-21 ;
3. The Manager, Government of India Press, Forms Unit, Santragachi, Howrah - 711 321.

..... Respondents

For applicants : Mr. K. Chakraborty, counsel

For respondents : Ms. Uma Sanyal, counsel

Heard on : 16.11.1999

Order on : 19 -11-1999

O R D E R

S.N. Mallick, VC

This O.A. has been filed by four applicants for the following reliefs among others :-

- 8.(B) Do issue mandate upon the respondents, their men and agents and each of them to rescind, recall and/or withdraw the purported orders being Annexure 'D' hereto and not to give any or further effect to the same ;

(C) Do issue mandate upon the respondents, their men and agents and each of them directing them to give appointment to the applicants in the service of the Government of India Press, Santragachi, Howrah forthwith (Forms, Publication Unit) in their respective trades."

2. The case of the applicants is as follows :

The applicants 1 to 4 passed Madhyamik (Secondary Examination from the West Bengal Board of Secondary Education and their respective dates of birth are 1.1.67, 1.4.66, 2.10.66 and 12.12.66. All of them are registered with the local Employment Exchange vide Annexure 'A' collectively. They have undergone two years Trade Apprentice Training as 'Book Binder' and 'Mono Key Operator' in the Govt. of India Press, Santragachi under the respondents and came out successful after completion of the training and also passed the prescribed Trade Test conducted by the National Council for Vocational Training in the year 1988/89 and thereby qualified themselves to be absorbed and employed as Skilled/Trained Apprentice in the various skills of the administration. It is further stated that their skill as 'Trained Trade Apprentice' were appreciated and they were issued National Apprenticeship Certificate from the Secretary of the National Council of Vocational Training, under the Ministry of Labour, Govt. of India. The supporting documents are to be found under Annexure 'B' collectively.

3. The applicant No.1 passed the Apprenticeship Training in 'Mono-Key Board Operator', while the other three applicants passed the said training in 'Book Binder'. Under the Recruitment Rules, 1987, the upper age limit for recruiting the Trade Apprentices in the administration was 30 years with training period (2 or 3 years) and on that basis, the applicants are fit to be employed and absorbed permanently in the Govt. of India Press, the respondent No.2. After the completion of the training, the petitioners

approached the authorities for their permanent absorption or appointment in the aforesaid trades, but they were given to understand that due to a ban imposed on such recruitment by the Govt. of India, they could not be appointed and that they were assured that as and when such ban is lifted by the Government they will be considered. The said ban was subsequently lifted and the respondents gave appointment to a good number of Trained Trade Apprentices other than the applicants for which some of the aggrieved candidates approached this Tribunal by filing O.A. No.1167/94 before this Tribunal against the present respondents, which was allowed as per order dated 28.8.95(Annexure C), after a contested hearing with the following directions :-

" The petitioner is, therefore, disposed of with the following order that the respondents shall consider the case of the applicants after deciding suitable age relaxation in their favour and then consider them under the Rules along with other eligible candidates for the said appointment appropriately keeping in view the vacancies available in different categories and the apprenticeship training qualification of the petitioners in the relevant trades. This should be implemented within a period of 3 months. This should be implemented within a period of 3 months from the date of communication of this order. "

In compliance with the aforesaid order, the respondent authorities gave appointment to the petitioners thereto in the office of the respondents 2 and 3. The present applicants also prayed before the respondent authorities to extend the same benefit to them, which was refused by the respondent authorities by their communication dt.1.3.96(Annexure-D), which is quoted below :-

" With reference to his application dated 6.10.95 the undersigned is directed to inform that his prayer was considered by the Directorate of Printing but regret to inform herein that the judgment of C.A.T. passed on 28.8.95 in O.A.1167 of 1994(Pradip Kr.Sanyal & Ors. -vs- Union of India & Ors.) is applicable only for the petitioners and not for all apprentices in various trades. "

Hence, the petitioners have filed the present application as they have been unduly discriminated and deprived of their legitimate claim by the respondent authorities.

4. The application has been contested by the respondents by filing a reply. The main defence is based on the contents of the communication as per Annexure 'D' dated 1.3.1996.

5. It has been submitted by Ms.Uma Sanyal, Ld. Counsel, appearing for the respondents that the benefits of the aforesaid judgment were applicable only to the petitioners to the O.A.1167 of 1994. It is also her submission that such appointment will depend upon the availability of vacancies and the number of similar persons in the waiting list, who are senior to the present applicants.

6. Regarding the first ground, we must note that there is no legal justification of the stand taken by the respondent authorities that the benefits of the judgment rendered by this Tribunal in O.A. 1167/94, as noted above, cannot be extended to the present petitioners only on the ground that they were not parties to the same. Such stand is blatantly discriminatory and cannot be allowed to stand. Regarding the second contention, it may be noted that the applicants were never given to understand by the respondent authorities that their cases would be considered for absorption or appointment upon the availability of vacancies and their position in the waiting list.

7. The Ld. Counsel appearing for the petitioners has drawn our attention to another judgment delivered by this Tribunal in O.A. No. 413 of 1996 dt.22.4.98 on the similar issue relating to similarly circumstanced persons(vide Annexure-X to the Rejoinder). The said application was allowed with the following observations and directions :-

*8. Admittedly, the respondents have considered the case of the applicants of O.A.1167 of 1994 in terms of the direction issued by the Tribunal and have appointed

or absorbed all of them. Under the circumstances, there is no reason for the respondents to take discriminatory view in respect of the present petitioner in the matter of his appointment or absorption in a suitable post or to deny him the benefit of the aforesaid judgment, which is squarely applicable to him being similarly placed and circumstanced like the petitioners in the earlier O.A.No.1167/94. There is no justification of the stand taken by the respondents that the benefit of the aforesaid judgment is applicable only to the petitioner and not to all Apprentices. We do not also find any force in the stand taken by the respondents that the petitioner is age-barred according to the present recruitment rules coming into force from 1993 when the admitted fact is that the petitioner is governed by the old recruitment rules of 1987 where the upper age limit was fixed at $30 + 3 = 33$ years.

9. In view of the above, the application is allowed after hearing the Ld. Counsel appearing for both the parties with the following direction :

10. The respondents shall consider the case of the petitioner in terms of the directions given upon them as per order dated 28.8.95 passed by this Tribunal in O.A.No.1167/1994 and to implement the same within a period of 3(three) months from the date of communication of this order."

8. In view of the aforesaid facts and circumstances and the decisions of the Tribunal, we are of the view that the instant application should be allowed on similar terms. Accordingly, the O.A. is allowed and we direct the respondents to consider the cases of the petitioners in terms of the directions given upon them as per order dated 28.8.95 passed by this Tribunal in O.A.No.1167/1994 and to implement the same within a period of three months from the date of communication of this order.

9. Parties to bear their own costs.

By
(B.P. Singh)

Member(A)

S. N. Mallick
(S.N. Mallick)
Vice-Chairman