

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

O.A. No. 413 of 1996

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

Sri Prasanta Bhattacherjee, s/o  
Sri Prahlad Bhattacherjee, residing  
at Qr.No.10 Type-III - Press Pool,  
G.I.P. Colony, P.O. GIP Colony,  
Howrah - 711 321

....

Applicant

-vs-

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

....

Respondents

For applicant : Mr. K. Chakraborty, counsel

For respondents: Mr. B. Mukherjee, counsel

Heard on : 18.3.1998 - Order on : 22-4-1998

O R D E R

S.N. Mallick, VC

We have heard the Ld. Counsel appearing for the petitioner and the Ld. Counsel appearing for the respondents. The application is ready for hearing as reply and rejoinder are on record. We admit this application for adjudication and on consent, the matter is taken up for final disposal as on day's list.

2. The facts of the case are as follows :

a) The petitioner, who is a Commerce Graduate from the University of Calcutta had undergone the three years Trade Apprentice Training as "Letter Press Machine Minder" in the Government

of India Press, Santragachi in its Forms Unit from 30.3.84 to 29.3.87 and passed the prescribed Trade Test after due completion of the aforesaid training conducted by the National Council for Vocational Training in the year 1987 and thereby qualified himself to be appointed as Skilled/Trained Apprentice under the various skills of the administration. In recognition of his skill, the petitioner was issued National Apprenticeship Certificate by the Secretary, National Council of Vocational Training under the Ministry of Labour, Govt. of India.

b) The date of birth of the petitioner is 12.2.1966. It is alleged in the application that under the Recruitment Rules, 1987, which were applicable to the petitioner, the upper age limit for recruitment of the Trade Apprentice in the administration was 30 years plus the training period of 3 years, i.e. 33 years and as such, the petitioner was qualified and deserved to be appointed as such as a Trade Apprentice in the Govt. of India Press, Santragachi. But at the relevant time, there being a ban on the recruitment of Trade Apprentices, he was not given any appointment but was given to understand by the respondent authorities that his case would be considered after lifting of the ban by the Government. The ban was allegedly lifted in 1994 and the respondent authorities gave appointment to a good number of Trained Trade Apprentice without considering his case along with others similarly placed.

c) In the year 1994, a group of such Trade Apprentices, who were not given any appointment after lifting of the ban moved this Tribunal vide O.A.No.1167/94 praying for their regular employment or absorption in the service against the present respondents. The said application being contested by the respondents was disposed of on 28.8.95 by a Bench of this Tribunal with a

direction upon the respondents to consider the case of those applicants after making suitable age relaxation in their favour along with other eligible candidates for the said appointment as Trained Trade Apprentices keeping in view the vacancies available in different categories and the apprenticeship training qualification of the said petitioners in the relevant trades within a given time. It is alleged by the petitioner that in pursuance of the direction given by the Tribunal in the aforesaid O.A. No. 1167/94, all the applicants thereto were absorbed or given employment in the offices of the respondent Nos. 2 & 3. Thereafter coming to know the verdict of this Tribunal and the follow-up action taken by the respondents, the petitioner made a representation to the respondent authorities praying for extending the benefit of the said order dt. 28.8.95 passed in O.A. 1167 of 1994 to him on the ground that he was a similarly placed candidate. But the respondents refused to consider his prayer on the ground that the benefit of the aforesaid judgment was available ~~only~~ only to the applicants thereto. According to the petitioner, such action on the part of the respondents is a glaring example of executive highhandedness and flagrant discrimination among equals without reason and also <sup>against</sup> the principles of natural justice and equity of law. It has been urged in the application that the petitioner being similarly placed as the applicants to the O.A. No. 1167/94 is entitled to get the benefit of the said judgment and that the respondents have no lawful reason to refuse the said benefit to him.

d) Annexure A is the Admit Card issued by the West Bengal Board of Secondary Education to the petitioner for appearing at the Madhyamik Pariksha (Secondary Examination), 1983, which records his date of birth as 12.2.1966. The petitioner has also annexed his B.Com. Certificate, which is also to be found as

Annexure A at page 13. The petitioner has also annexed a xerox copies of his Employment Exchange Card, Certificate of his Apprenticeship Training as L.P.M/c.Minder issued by the respondent authorities on 11.3.88 certifying the completion of his training w.e.f. 30.3.84 to 29.3.87 and National Apprenticeship Certificate dt.19.10.95 issued by the National Council for Vocational Training, Ministry of Labour, Govt. of India certifying the prescribed training undergone by the petitioner in the trade of Letter Press Machine Minder and his passing the trade test held in October, 1987.

e) Annexure 'C' is a copy of the judgment of the Tribunal dt.28.8.95 passed in O.A.1167/94 in the matter of Pradip Kr. Sanyal & Ors. vs. Union of India & Ors. Annexure 'D' is the representation of the petitioner to the Directorate of Printing, Nirman Bhavan, New Delhi dt.6.10.95. The petitioner has also annexed the reply dt.4.3.96 given by the Assistant Manager(Admn), Govt. of India Press(Foms Unit), Santragachi, i.e. respondent No.3 to his representation dt.6.10.95 stating that the decision of the Tribunal in O.A.1167/94 filed by Pradip Kr. Sanyal & Ors. was applicable only to those petitioners and not to all Apprentices.

3. In the reply furnished on behalf of the respondents, the facts alleged by the petitioner have gone almost unchallenged and are, therefore, admitted. It is the case of the respondents that the petitioner is not entitled to the benefit of the aforesaid judgment given by this Tribunal in O.A. 1167/94 as it was applicable only to the applicants thereto and that under the present recruitment rules, the age limit is 25 plus 3 = 28 years which have come into force from 1993. It is also admitted that in 1987, the age limit was 20 plus 3 = 33 years. It is also contended that the passed Apprentices have no right or claim for

permanent absorption under the respondents.

4. In the rejoinder, the petitioner has reiterated his claim to be considered for appointment as a Trained Trade Apprentice on the basis of the judgment given by this Tribunal as referred to above.

5. We have heard the Ld.Counsel appearing for the petitioner and the Ld.Counsel appearing for the respondents. We have gone through the Annexures on record. We have also carefully gone through the order passed by an earlier Bench of this Tribunal in the aforesaid O.A.1167 of 1994 dt.28.8.95 to be found at page-17 (Annexure-C) to the application.

6. Undisputedly the petitioner has all the qualification to be absorbed or appointed under the respondents after successful completion of his training. The only objection is that he is age barred and that the benefit of the aforesaid judgment is not available to him. In the aforesaid judgment, similar was the objection raised by the respondents relating to the age of the petitioners concerned. In the aforesaid case, this Tribunal followed the decision of the Supreme Court, reported in A.I.R. 1955 SC 115 (U.P. State Transport Corporation & Anr. vs. U.P. Paribahan Nigam & Ors.) and also upon a decision of the Supreme Court, reported in A.I.R. 1987 SC 1227 (Union of India & Ors. v. N.Hargopal & Ors.).

7. In the first case, the Supreme Court has held that while dealing with the case of qualifying Apprentices after successful completion of their training, the authorities should keep in mind the principle that, other things being equal, the trained Apprentices should be given preference in case of employment and in such a case, a trainee is not required to get his name sponsored by the Employment Exchange. In the second case, the Supreme Court has laid down that "if age bar would come in the way of the trainee, the same would be relaxed in accordance with what is

stated in this regard, if any, in the concerned service rule and if the service rule is silent on this aspect, relaxation to the extent of the period for which the Apprentice had undergone training would be given." In the aforesaid judgment, this Tribunal has held that the petitioners of the said application (whose case is similar to the case of the present petitioner) should get appropriate age relaxation under the recruitment rules prevalent during the period for which they have undergone apprenticeship training and that they should also be considered for age relaxation for the period for which the economic ban remained in force. Accordingly, this Tribunal directed the respondents to consider the cases of these petitioners 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. In the aforesaid OA, the Tribunal directed that the order was to be implemented within a period of three months from the date of communication of the same.

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. 1167/1994. There is no justification of the stand taken by the respondents that the benefit of the aforesaid judgment is applicable only to the

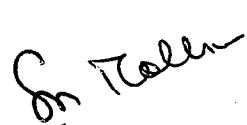
petitioner and not to all Apprentices. We do not also find any force in the stand taken by the respondents that the petitioner is age-barred according to the present recruitment rules coming into force from 1993 when the admitted fact is that the petitioner is governed by the old recruitment rules of 1987 where the upper age limit was fixed at  $30 + 3 = 33$  years.

9. In view of the above, the application is allowed ~~at the stage of admission~~ 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 direction 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 3(three) months from the date of communication of this order.

11. No order is made as to costs.

  
( S. Dasgupta )  
Member(A)

  
( S.N. Mallick )  
Vice-Chairman