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**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH**

Original Application No. 02 of 2005

Dated of order: July 08, 2005.

**CORAM:**

**HON'BLE MR. J K KAUSHIK, JUDL. MEMBER**

**HON'BLE MR. G R PATWARDHAN, ADM. MEMBER**

Ashok Prajapat son of Shri Bheru Lal Prajapat, aged 28 years,  
resident of Brahmanon Ki Gali, Umed Chowk, Jodhpur.

...Applicant

Mr. Sanjeet Purohit : Counsel for the applicant.

**VERSUS**

1. Union of India through Secretary, Ministry of Defence,  
Government of India, Raksha Bhawan, New Delhi.
2. The Officer Command, 669, Army Aviation Sqn. (R&O),  
C/o 56 A.P.O.

Mr. Vinit Mathur, counsel for the respondents.

.... Respondents



**O R D E R (ORAL)**

**[Per Mr. J K Kaushik, Judl. Member]**

Shri Ashok Prajapat has filed this Original Application for  
seeking a mandate to the respondents for granting relaxation in  
upper age limit to the applicant and consider his case for grant  
of appointment on the post of Lower Division Clerk.

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2. With the consent of learned counsel for both the parties, the case has been heard for final disposal at the stage of admission since the applicant did not intend to file rejoinder and the pleadings are otherwise complete. We have, accordingly, heard the learned counsel for both the parties and have very carefully perused the pleadings and records of this case.

3. The material facts of this case are that the applicant belongs to Other Backward Class and he possesses the qualification of Secondary School Examination, Senior Secondary Examination and also passed his B.Com Examination from Jai Narain Vyas University, Jodhpur. He got an opportunity to apply in pursuance with notification which came to be issued on 2<sup>nd</sup> September, 2004 at Annexure A/2 wherein one post of Lower Division Clerk was sought to be filled in and the said vacancy has been earmarked as reserved for Other Backward Class category. He applied for the same and was allowed to undertake the interview as well the type test. The applicant came to learn that he was ranked at Sl. No. 1 in the merit list. Subsequently, he was informed orally that he had crossed the age of 28 years and therefore, cannot be given appointment to the post in question. Averments have been made in the pleadings indicating that there is a discrimination in regard to the same post in as much as in other departments the normal age has been prescribed as 27 years with the relaxation in case of Other Backward Class for



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3 years. The Original Application has been grounded on multiple grounds mentioned in para 5 and its sub-paras.

4. The respondents have contested the matter and filed a detailed and exhaustive reply to the Original Application. It has been submitted that when the final list was being prepared it was found that the applicant had crossed the upper age limit prescribed for the post; therefore, he could not be empanelled for the same. Since the post in question was exclusively for OBC category candidate, there was no specific mention in the advertisement about the age relaxation as the notification was issued by including the relaxation period of three years, which is provided under the Rules for OBC category, otherwise, as per the Rules the age limit prescribed for Group 'C' and 'D' employee is 18 to 25 years only and the relaxation for OBC is 3 years. The selection has been made strictly according to the rules. The factual position has been reiterated while giving the para-wise reply and the grounds have been generally denied.



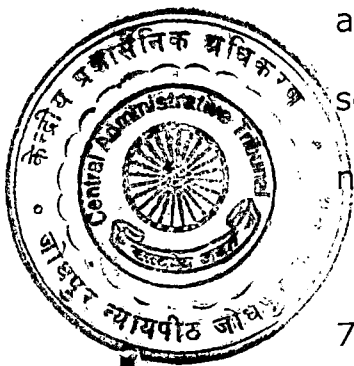
5. The learned counsel for the applicant has strived hard to persuade us that the respondents have accepted the candidature of the applicant and they allowed him to appear in the complete selection. He has submitted that the notification does not contain ~~ed~~ any annotation regarding grant of relaxation and in other department of the Government, the OBC candidate can be appointed on the post of OBC to the maximum age of 30 years

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but such course has not been found expedient for the respondents and his candidature has been completely ignored. He has stressed hard that the respondents are estopped from taking a different stand after permitting the applicant to appear in the examination and having obtained the position at Sl. No. 1 in the merit list.

6. On the contrary, the learned counsel for the respondents has reiterated the defence of the respondents as set out in the reply and has submitted that they have not committed any irregularity and they have acted well in accordance with the recruitment rules and since the very post was meant only for OBC the maximum age was prescribed after adding the relaxed age of 3 years so as to avoid any confusion. Therefore, the selection has been conducted in consonance with the rules and no fault can be fastened with the respondents.



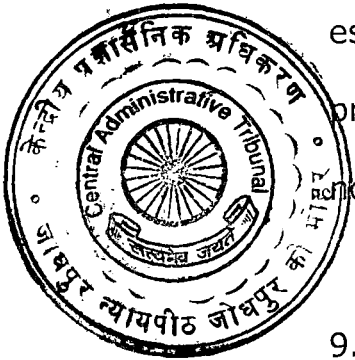
7. We have considered the rival submissions put forth on behalf of both the parties. We find that the applicant is a graduate and very well knew the maximum age which has been given in the advertisement, knowing fully well that he has crossed maximum age, he has submitted his application. The respondents have rightly rejected his candidature since the same was de hors of the recruitment rules and the applicant cannot blame the respondents but shall have to thank to himself for the whole episode. Unfortunately, even the notification for inviting

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application and where the age has been prescribed at Annexure A/2 is not under challenge before us.

8. Now, we would advert to the another very significant question involved in this case which is made in this O.A. reveals that applicant has sought for a direction to the respondents that the age should be relaxed. We have not been shown any rule under which such relaxation can be given. Secondly these matters are exclusively within the domain of the executives and we have not been shown that there is any discrimination while exercising the power of relaxation and, therefore, we have absolutely no hesitation in reaching to a conclusion that in such a situation, the Tribunal cannot give any direction. The question of estoppel does not arise when the statutory recruitment rules provides certain age, which the applicant has admittedly crossed, no right of the applicant can be said to be infringed.



9. The upshot of the aforesaid discussion leads us to an inescapable conclusion that the Original Application sans merits and the same fails and stands dismissed. However, the parties are directed to bear their own costs.

*SP*  
**(G R PATWARDHAN)**  
Administrative Member

KUMAWAT

*J.K. Kaushik*  
**(J.K. KAUSHIK)**  
Judicial Member

Part II and III destroyed  
in my presence on 10.1.14  
under the supervision of  
section officer (1) as per  
order dated 18/12/13

*[Signature]*  
Section officer (Record)

Copy of order sent  
Per by Speed Post  
Regd AD Viche K 198  
clt 19.7.03

*[Signature]* → 19/7/03