

**CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR**

ORIGINAL APPLICATION NO. 126/2008

Date of Order: 21.11.2008

**HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE MR. TARSEM LAL, ADMINISTRATIVE MEMBER**

1. Sumer Lal Chauhan S/o Sh. Jagdish Chandra Chauhan, aged about 33 years, R/o Vaishnav Colony, Channa Bhakhar, Jodhpur.
2. Laxmi Narain S/o Sh. Dhagla Ram Ji, aged about 31 years, C/o Jethu Singh, Indira Colony, Rama-ji-Pyau, Mandore Road, Jodhpur.
3. Manohar Singh S/o Sh. Moti Singh Rathore, aged about 32 years C/o Chatar Singh Parihar, in front of Custom Office, Air Port Road, Jodhpur.
4. Jethu Singh S/o Sh. Ghanshyam Singh, aged about 31 years, R/o Indira Colony, Rama-ki-Pyau, Mandore Road, Jodhpur.

...Applicants.

Mr. R.S. Shekhawat, counsel for applicants.

VERSUS

1. The Union of India through the Secretary, Ministry of Finance, Department of Revenue, Government of India, North Block, New Delhi.
2. The Commissioner of Central Excise I & Customs, Customs Department, N.C.R. Building, Statue Circle, Jaipur (Raj.).
3. The Joint Commissioner, Central Excise & Customs Department, Kuchaman House, Air Port Road, Ratanada, Jodhpur.
4. The Assistant Commissioner, Central Excise & Customs Department, Kuchaman House, Air Port Road, Ratanada, Jodhpur.

...Respondents.

Mr. Kuldeep Mathur, counsel for respondents.



(2)

ORDER

[**Per Mr. George Paracken, Judicial Member**]

The applicants have filed this joint Original Application against the Annexure A/1 advertisement dated 05-11.04.2008 published in the Employment News inviting applications for the post of Sepoy Group 'D'. They have sought for the following reliefs:

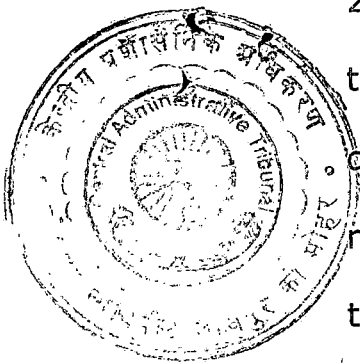
"(A). By an appropriate order or direction, the respondents may kindly be directed to allow the applicants to appear for interview and selection process for the selection for the Group-D posts of Sepoy as per the advertisement dated 05-11.04.2008 by treating them as eligible (by granting age relaxation) and they may be given appointment if found otherwise suitable.

(B). By an appropriate order or direction, the respondents may kindly be directed to consider the candidature of the applicants within the age limit.

(C). Any other appropriate relief which this Hon'ble Tribunal may deem just and proper in the facts and circumstances of the case may kindly be passed in favour of the applicants.

(D). Application of the applicants may kindly be allowed with costs."

2. The brief facts of the case, according to the applicants, are that they were working under the respondent-department on daily wages basis from the year 1992 and the Respondents have not considered them eligible for the Group 'D' posts of Sepoys in terms of the said Annex. A/1 advertisement as they have crossed the upper age limit prescribed for selection. Respondent-department has, therefore, not allowed them to appear in the interview for the aforesaid posts which was being held from 02.06.2008. They also submitted that as per the order dated

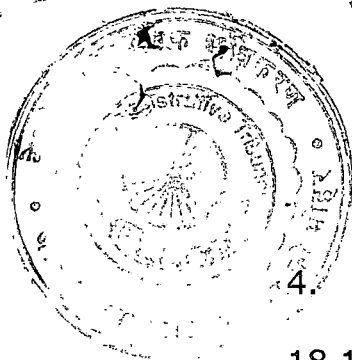


(3)

23.03.2006 passed by this Tribunal in the case of Hari Prasad Sharma vs. UOI & Ors., the service rendered by the casual labour will have to be deducted from the maximum age for the purpose of determination of the age for group 'D' post and thus they are entitled to the age relaxation.

3. In this case, the Applicants had also prayed for interim relief to the effect that they may be allowed to appear provisionally for interview for the selection of the Group-D posts of Sepoy as per the advertisement dated 5-11.04.2008 and be provisionally given appointment till the final decision is taken in the main Original Application. When the case was heard for admission on 17.07.2008, this Bench of the Tribunal considered the aforesaid prayer for interim relief and passed the following interim order:

"In view of what has been stated above, the respondents are directed to permit the applicants to appear provisionally in the interview and the result of the applicants shall be kept in sealed cover. It is, however, made clear that the applicants will be interviewed only as per advertisement dated 05-11 April, 2008 (Annex. A/1), if the interview is not over and in case, the interview as per said advertisement is over, there is no need to conduct separate interview for the applicants."



4. When the case was again taken up for final hearing on 18.11.2008, this Bench of the Tribunal passed the following order:

"Heard learned counsel for the parties.

Learned counsel for the applicant has submitted that the applicants have appeared in the Interview and Physical Test and the result has been kept in sealed cover.

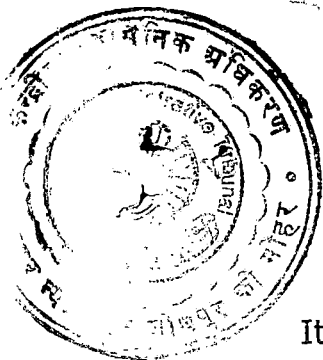
(4)

The question is whether these applicants are eligible to be appointed to the Group 'D' posts as they are over-aged as claimed by the respondents. Even if they have qualified in the test, if they are found not eligible to be appointed, they may not have any claim for appointment. However, if they have not qualified in the Interview as well as Physical Test, there is no need of going into this matter further.

Therefore, Government counsel is directed to produce results of the applicants in sealed cover on the next date of hearing.

List the matter again on 21.11.2008."

5. Accordingly, the learned counsel for the respondents has produced a copy of the letter No. II-26(21)CCU/JPR/2008/3835 dated 05.08.2008 written by the Joint Commissioner (CCU) office of the Commissioner, Central Excise, Jaipur-I to the Assistant Commissioner (Law), Central Excise (Hqrs.), Jaipur-I wherein it has been stated that the applicants herein have secured the following marks in the final Interview held on 19.07.2008.



S.No.	Name of Applicants S/Shri	Marks obtained (out of 500)
1.	Sumer Lal Chauhan	254
2.	Manohar Singh	249
3.	Jethu Singh	244
4.	Laxmi Narain	240

It has also been mentioned in the aforesaid letter that since the cut off marks in the final interview in General category was 412, OBC category was 351, SC category was 350 and ST category was 378, none of the applicants have found their place in the merit list.

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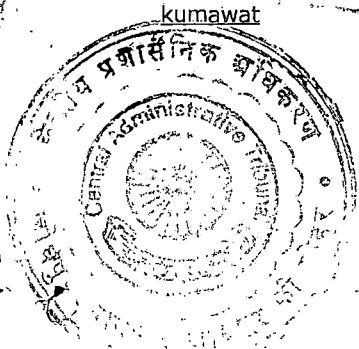
6. We have heard Mr. R.S. Shekhawat, learned counsel for the applicants and Mr. Kuldeep Mathur, learned counsel for the respondents. In view of the fact that all the Applicants have failed in the eligibility test for appointment to the Group 'D' posts, the Original Application itself has become infructuous. It is, therefore, not necessary to go into the core question of eligibility or otherwise of the applicants to appear in the said examination and to decide the case on merit. Accordingly, the Original Application is dismissed. There shall be no order as to costs.

Tarsem Lal

[TARSEM LAL]
ADMINISTRATIVE MEMBER

George Parackken

[GEORGE PARACKEN]
JUDICIAL MEMBER



Part II and III destroyed
in my presence on 19/11/11
under the supervision of
section officer () as per
order dated 19/8/2014
[Signature]
Section officer (Record)

Received by
[Signature]
19/12/08
[R. S. SHEKHAWAT]
Adv.
[Signature]