

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No.
~~XXXXXX~~

174

1991

DATE OF DECISION 6.12.1991

A. Joseph Applicant (s)

M/s M Ramachandran & Advocate for the Applicant (s)
P Ramakrishnan
Versus

UNI rep. by Secy. to Govt., Respondent (s)
Min. of Industry, N.Delhi & 3 others

Mr. Mathew J. Nedumpara, ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. N.V. Krishnan - Administrative Member
and

The Hon'ble Mr. A.V. Haridasan - Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *1/3*
2. To be referred to the Reporter or not? *no*
3. Whether their Lordships wish to see the fair copy of the Judgement? *no*
4. To be circulated to all Benches of the Tribunal? *no*

JUDGEMENT

(Mr. A.V. Haridasan, Judicial Member)

The applicant who entered service in the Govt. of India Extension Centre at Attingal, presently working at Extension Centre, Ettumanur has filed this application praying that the respondents may be directed to regularise his service as Spinner (skilled worker Grade-II) with effect from the date of his initial appointment or in the alternative, to dispose of the representation at Annexure-V and VI made for getting the same relief. The applicant while he was recruited as Skilled Worker on 15.11.1983

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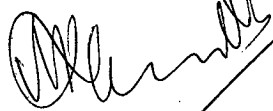
was slightly over-aged. He did not possess exactly the prescribed qualification either. But as the applicant was the only candidate sponsored by the Employment Exchange and as nobody else was available, the applicant was taken into service on a casual basis. The applicant continued in service and even according to the respondents, he is doing excellent work as evidenced by Annexure-IV letter issued by the Assistant Director to the Director, Production Centre, Ettumanur. Though the applicant has been making repeated representations for having his services regularised, he has not been given a final reply. It is in this circumstances that the applicant was constrained to approach this Tribunal for getting his grievance redressed. A copy of the representation made by the applicant to the third respondent on 16.6.1990 is at Annexure-V. It is seen from the Annexure-VI that the Director has made with a favourable recommendation to the Development Commissioner.

2. In the reply statement filed on behalf of the respondents the fact that the applicant was selected eventhough he did not possess the prescribed qualification and was slightly over-aged is admitted and it has also been stated that as the applicant was the only candidate sponsored by the Employment Exchange, they had to do so. From the records and in the

pleadings it is seen that the work and conduct of the applicant have been very good. As the applicant has been performing the duties of the skilled worker Grade-II for the past 8 years in a very satisfactory manner, we are of the view that his case for regularisation in service has to be considered with due sympathy. It has been observed by the Supreme Court and various High Courts that long experience is a good substitute for qualification. It is also a settled law that relaxation in respect of qualifications, educational or otherwise at the entry into service should be deemed to have been a relaxation granted for ever. In these circumstances, there should not be any handicap in the case of the applicant being favourably considered and orders to that effect being issued without further delay.

3. In view of the above discussion, we are of the view that the application can be disposed of giving a direction to the first and second respondent to take a decision on the representation submitted by the applicant at Annexure-V in the light of the recommendations made by the second respondent considering the fact that the applicant's services have been utilised for the last 8 years and also that he has been doing the work in an excellent manner.

4. In the result, the application is disposed of with a direction to respondents 1 and 2 to consider and dispose of the representation of the applicant at Annexure-V in the light of the recommendations made by the second respondent in Annexure-VI, keeping in view the fact that the applicant's service have been utilised for the past 8 years, that despite his not having prescribed qualification and being slightly over-aged the applicant has been discharging his duties in an excellent manner and also the rulings of the Supreme Court and the various High Courts that experience and expertise are good substitute for qualification and that qualification relaxed once should be deemed to have been relaxed for ever. The representation should be disposed of with a speaking order within two months from the date of communication of this order. There is no order as to costs.



(A.V. HARIDASAN)
JUDICIAL MEMBER



(N.V. KRISHNAN)
ADMINISTRATIVE MEMBER

6.12.1991