

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.266/2003

Friday, this the 7th day of November, 2003.

CORAM:

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

HON'BLE MR K.V.SACHIDANANDAN, JUDICIAL MEMBER

Mohamed Nasirudeen.K.K.
Upper Division Clerk,
Medical and Health Services,
Kavarathi, U.T. of Lakshadweep. - Applicant

By Advocate Mr T.M.Raman Kartha

Vs

1. Administrator,
Union Territory of Lakshadweep,
Kavarathi.
2. The Executive Engineer(Electrical),
Administration of the U.T. of Lakshadweep,
Department of Electricity,
Administration of U.T. of Lakshadweep,
Kavarathi-682 555. - Respondents

By Advocate Mr S.Radhakrishnan

O R D E R

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

The applicant who is working as Upper Division Clerk in the Medical and Health Services Department of the Administration of U.T. of Lakshadweep, Kavarathi since 1999 had applied for the post of Junior Engineer(Electrical) in pursuance of A-2 notice dated 30.5.2002. He is aggrieved by A-4 list displayed on the Notice Board on 24.3.2003 wherein his name appears in the list of candidates whose applications were rejected on account of having crossed the prescribed

2..

upper age limit. The applicant has the necessary educational qualification for the post of Junior Engineer(Electrical) as he is a B.Tech. degree holder. As per the SSLC, his date of birth is 2.6.70. He is a member of the Scheduled Tribe. As per the relevant Recruitment Rules, the upper age limit for direct recruitment to the post of Junior Engineer(Electrical) is 25 years. However, being a member of the S.T. and being a Government servant, the age limit in the applicant's case would be relaxable by five years and two years respectively which would get altogether seven years of age relaxation. As per A-3 Recruitment Rules, the crucial date for determining the age limit should be the last date on which the Employment Exchange is asked to sponsor the candidates in the normal course. However, the applicant attained the age of 32 years as 1.6.2002. According to the applicant, as per Note 3 of A-3 Recruitment Rules, the crucial date for determining the age limit should be 30.5.2002 which is the date on which A-2 notice was issued or any other date prior to that. Since the applicant attained the age of 32 years only on 1.6.2002, his candidature could not be rejected on grounds of his having become over aged. The applicant also maintains that since the age limit for departmental candidates with 3 years continuous service would be 40 years for General Category and 45 years for SC/ST, the applicant who was at the relevant time only 32 years was well within the age limit for the post of Junior Engineer and accordingly the applicant seeks the following main reliefs:

2.

i) Call for the records leading to A-4 issued by the 2nd respondent, and quash the same.

ii) Declare that the applicant is entitled to be considered for appointment to the post of Junior Engineer(Electrical) under the Lakshadweep Electricity Department, in view of the relaxation in age applicable to the applicant.

2. In their reply statement the respondents have maintained that the applicant was over-aged since he has already crossed the age limit of 32 years as on 30.6.2002 which was the last date prescribed for receipt of application in pursuance of A-2 notification. According to them, the date of issue of notification is irrelevant for purpose of determining the age limit. That the applicant attained the age of 32 on 1.6.2002 could not be denied. The applicant submitted his application on 21.6.2002 on which date he had already crossed the relaxed age limit. With regard to the age relaxation upto 45 years as claimed by the applicant, it is stated by the respondents that as per the existing orders compiled in Chapter 14 of Swamy's Complete Manual on Establishment and Administration the departmental candidates with 3 years continuous service are eligible for age concession upto 40 years for General candidates, 45 years for SC/ST and 43 years for OBC for appointment to Group 'C' and 'D' posts by direct recruitment if they are in the same or allied cadre. However, no age relaxation can be allowed to any service candidates like the applicant in the matter of

9.

appointment to a post which is not in the same line or allied cadre as the applicant was working as UDC which is a non technical post in the ministerial cadre whereas he applied for a direct recruitment post of Junior Engineer(Electrical) which is a non ministerial department post. The applicant's candidature was therefore rejected on valid grounds, they would urge.

3. The applicant has filed rejoinder seeking to support his case that he was well within the relaxed age limit. The respondents have filed additional reply statement reiterating their stand that no further relaxation could be allowed and even as per the relaxation allowed, the applicant had already crossed the age limit of 32 years well before the last date for receipt of applications by 19.6.2002 when Employment Exchange has sponsored the names of candidates for the post of Junior Engineer(Electrical) as per the Administration's requisition.

4. We have heard Shri T.M.Raman Kartha, learned counsel for the applicant and Shri S.Radhakrishnan, learned counsel for respondents.

5. Shri Raman Kartha, learned counsel for the applicant has maintained that the applicant had not crossed the prescribed age limit as on 30.5.2002 on which date A-2 notice was published. That being the notification on the basis of which the applications were received and processed, the last date on which the Employment Exchange was asked to sponsor the

9.

names of candidates ought to be construed as a date prior to 30.5.2002, according to the learned counsel for applicant. In that view of the matter, learned counsel would urge that the applicant was unfairly excluded from the list of eligible candidates for appointment to the post of Junior Engineer(Electrical) and that, accordingly, the impugned A-4 order was liable to be quashed. Shri S.Radhakrishnan, learned counsel for the respondents would submit that the crucial date for determination of age limit was the last date prescribed for receipt of nominations from the Employment Exchange. In this connection, he has invited our attention to the instructions compiled in Swamy's Master Manual for DDOs and Heads of Offices, Para No.16 at page 55 and 56 (R-1) regarding scrutiny of nominations/applications, and has further contended that even by the general notification A-2, the last date for receipt of application was 30.6.2002 and that therefore the latest date upto which the maximum age limit would be permitted cannot be prior to 30.6.2002. Learned counsel would place reliance on the Supreme Court's decisions in Dr M.V.Nair Vs Union of India and others [(1993) 2 SCC 429], Rekha Chaturvedi Vs University of Rajasthan and others [1993 Supp(3) SCC 168] and Bhupinderpal Singh and others Vs State of Punjab and others [(2000) 5 SCC 262] to support his contention that the cut off date for determining suitability and eligibility should be the last date for receipt of application specified in the notification itself. The cut off date in this case being 30.6.2002, the applicant's case could not be considered since he had already crossed his age limit before that date. Accordingly, the rejection of the

2.

applicant's case on account of his having become over aged could not be assailed, the learned counsel would maintain.

6. On a consideration of the relevant facts and contentions, we are of the view that there is considerable force in the statement made by the respondents and the further arguments of the learned counsel for the respondents. The applicant in this case was born on 2.6.1970. He is, no doubt, eligible for 5 years age relaxation on account of being an ST candidate and 2 years further relaxation as he is a Government employee. The applicant's claim regarding further relaxation is without any substance: Since as per the existing provisions further age relaxation is possible in the matter of direct recruitment for departmental candidates with 3 years' continuous service upto 40 years for general candidates, 45 years for SC/ST and 43 years for OBC candidates can be given only when the direct recruitment to Group 'C' and 'D' posts which are in the same line or allied cadre and a relationship could be established that service rendered in the Department/Post will be useful for efficient discharge of the duties in the other categories of posts. This is clear from the Government of India orders and instructions compiled in Swamy's Master Manual for DDOs and Heads of Offices (Part II Establishment) - 2003 Edition regarding age relaxations for appointments by direct recruitment vide Para Nos.19 and 21 at page 9 and 13 respectively. Sl.No.6 under Para No.19 dealing with Age Relaxations for departmental candidates is reproduced hereunder for easy reference:

9.

S.No.	Category of persons to whom age concession is admissible	Categories of posts to which concession is admissible	Extent of age concession
(1)	(2)	(3)	(4)
xxxxx	xxx	xxx	
6.	Departmental candidates with 3 years' continuous service.	For appointment to Groups 'C' and 'D' posts by direct recruitment which are in the same or allied cadre.	Upto 40 years of age (45 years for SCs/STs and 43 years for OBCs)"

Relevant extracts of the clarification with regard to the age relaxation to departmental candidates as per Para No.21 are given below:

"21. Age relaxation to departmental candidates: (Sl.No.6) - The age concession up to 40 years for general candidates, 45 years for SC/ST and 43 years for OBCs is subject to the condition that the direct recruitment posts in Group 'C' / Group 'D' are in the same line or allied cadres and a relationship could be established that service rendered in the Department/posts will be useful for efficient discharge of the duties in the other categories of posts. Each Department will decide whether the post in question is in the same line or allied cadre. It is left to the Staff Selection Commission to decide similarly at its discretion whether this principle is satisfied or not in individual cases. In cases of doubt, the SSC may consult the departments concerned."

The applicant was working as UDC in the Medical and Health Services department of administration of U.T. of Lakshadweep. The post applied for is Junior Engineer(Electrical) under the Lakshadweep Electricity Department. These two posts are not in the same line or allied cadre. There is no dispute about the fact that in the instant case the upper age limit is 25

Q.

(18 to 25) for general candidates for direct recruitment as is clear from A-2 notice dated 30.5.2002. As an ST candidate, the applicant was eligible for age relaxation by 5 years. As per clause 3 of the Central Civil Service and Civil Posts (Upper age limit for Direct Recruitment) Rules, 1998, he would be entitled to 2 years further relaxation. In other words, the applicant in the normal course would be eligible for 7 years age relaxation with regard to the maximum age limit, i.e. he should not be over 32 years on the relevant date. The applicant would contend that the date of notification viz, 30.5.2002 is the crucial date for determining the age limit. This has no substance. A-3 notification dated 29.5.1997 contains the Lakshadweep Electricity Department (Group 'C' and 'D' Technical Posts) Rules, 1997. Column 7 of the Schedule to the said notification prescribes the age for direct recruits as between 18 and 25 years. Relaxation admissible with reference to the said age limit is clarified in Notes 1 to 3 appended to the schedule. These are as follows:

"1. Relaxable for Government servants/Scheduled Caste/Scheduled Tribe candidates, Ex-Serviceman and other special categories of persons in accordance with the instructions or orders issued by the Central Government from time to time.

2. Upper age limit increased from 25 years to 30 with further relaxation upto 5 years in the case of candidates belonging to Scheduled Tribe in the Union Territory of Lakshadweep. This dispensation shall remain in force (vide letter No.U.14011/1/93-ANL dated 17.8.93 of Ministry of Home Affairs, New Delhi).

3. The crucial date for determining the age limit shall be the last date on which the Employment Exchange is asked to sponsor candidates."

(Emphasis supplied)

Q.

From the above, it would be evident that the crucial date for determining the age limit will be the last date by which the Employment Exchange is asked to sponsor candidates. The most natural meaning of the above note is that the crucial date of determining age limit should be the last date by which the Employment Exchange was directed to sponsor candidates as per specific requisition. In this case, however, we are not enlightened as to what is the last date by which the candidates were to be sponsored by the Employment Exchange. Having regard to the public notice dated 30.5.2002(A-2) which specifies 30.6.2002 as the last date for receipt of applications with attested copies of age, educational qualification, experience etc. required for the purpose would lend support to the inference that 30.6.2002 should be the cut off date by which all applications are to be received in the office of the respondent-organisation. That being so, the age limit is also to be reckoned with reference to the last date of receipt of applications which in this case, is 30.6.2002. In Dr.M.V.Nair's[(1993) 2 SCC 429], case referred supra, the Apex Court has held that suitability and eligibility of candidates have to be considered with reference to the last date for receiving the the applications unless of course, notification calling for application itself specifies such a date. The relevance of verifying the suitability and eligibility of a candidate for appointment with reference to the last date for receipt of application has been underscored by the Hon'ble Supreme Court in several other decisions like Rekha Chaturvedi Vs University of Rajasthan[1993 Supp(3) SCC 168] and Bhupinderpal Singh and others Vs State of Pubjab and

9.

others [(2000) 5 SCC 262] referred to earlier. The applicant in this case applied for the post of Junior Engineer(Electrical), Electricity Department of U.T. of Lakshadweep in response to A-2 notice which specified the last date for receipt of application as 30.6.2002. For determining the age limit, therefore 30.6.2002 should be taken as the crucial date.

7. In view of the above facts and circumstances of the case, we find that the applicant had crossed 32 years of age on 1.6.2002 and that being so, as on the last date for receipt of application, the applicant had already been over-aged. Therefore, the impugned A-4 notice indicating the rejection of the applicant's candidature on account of his having crossed the age limit cannot be faulted. The application is liable to be dismissed and we do so. There is no order as to costs.

Dated, the 7th November, 2003.



K.V.SACHIDANANDAN
JUDICIAL MEMBER



T.N.T.NAYAR
ADMINISTRATIVE MEMBER

trs.