

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH, LUCKNOW
O.A. No. 486/2003

Lucknow this the 4th day of June, 2004.

HON. SHRI M.L SAHNI, MEMBER(J)

HON SHRI S.C.CHAUBE, MEMBER(A)

Shiv Dayal aged about 46 years, son of late Shri Indra Prasad, resident of 386/72, Dargah Hazrat Abbas Road, Sahadatganj, Lucknow.

Applicant..

BY Advocate Shri B.P. Mishra.

versus

1. Central Water Commission, Sewa Bhawan, Room No. 309, Newe Delhi through its Chairman.
2. Chairman Central Water Commission, Room No. 309, New Delhi.
3. Superintendent/Chief Engineer, Central Water Commission, Lucknow.
4. Government of INDIA through its Secretary, Ministry of Water Resources, New Delhi.

Respondents

By Advocate Shri K.K Shukla.

O R D E R

BY M.L SAHNI, MEMBER(J)

In this O.A. Shri Shiv Dayal(applicant) has rquested for quashing of order dated 15.5.2000 and order dated 27.1.99 (Annexures 1 and 2 respectively) with directions to the respondents to appoint him on the post of Supervisor in Central Water Commission in any of the Institutions in India by issuing fresh appointment letter within the suitable time.

2 While narrating the facts of his case, the applicant has elaborated the history since 1979, and thereafter he was under training as apprentice which was completed in 1982 and after completion thereof, he was issued appointment letter on 5.10.83 for his posting at Gangtok Sikkim, but he did not join there for reasons not

relevant for disposing off the present O.A. His case, however, rests on the decision in writ petition No. 523/88 decided on 19.11.1998 copy of which is annexed herewith as Annexure -14. The applicant has also relied upon the decision laid in U.P. State Road Transport Corporation and another vs. U.P. Parivahan Nigam Shishikshu Berozgar Sangh and others (1995(2) SCC, 1, copy of which has been annexed by the respondents with their counter-affidavit as Appendix-I. According to the applicant the directions were given to the respondents vide Annexure-14 to consider the candidature of the applicant in the light of the decision laid in U.P. Transport Corporation (supra).

3. We have heard the learned counsel for the parties. On behalf of the applicant, his counsel has submitted that he has nothing to add by way of oral arguments ^{other than what} and as stated by him in the O.A. Similarly, the learned counsel for the respondents has placed reliance on the pleadings and especially on the averments made in para 2 of the Counter-reply filed on 3.3.04.

4. We have carefully gone through the Judgment of Hon'ble High Court of Allahabad and also the decision laid in U.P. State Road Transport Corporation (supra) As per decision of the Hon'ble Supreme Court, the direction was only to the effect that if there is any age bar coming in the way of attaining, the same should be relaxed in accordance with service rules and if the service rules are silent, then relaxation to the extent of period for which the apprentices have undergone training, should be given. It is submitted on behalf of the respondents that in respect of applicant's case no age relaxation was provided by rules and, therefore, he was entitled to be considered for relaxation upto one year of training which he had undergone during 1982-83 for one year.

5. The judgment of the Hon'ble Supreme Court in the above said case had come in the year 1995 and therefore,

the age relaxation of one year was not helpful to him because by the time his case was considered, he had already become 42 years of age. It is further submitted on behalf of the respondents that since he did not fulfil the eligibility criteria for appointment to the post of Junior Engineer in the Central Water Commission, therefore, his ~~application dated~~ ^{14.12.98} was rejected vide letter dated 27.1.99 (Annexure 2). Annexure -1 dated 5.5.2000 is only communication of the decision taken by the authorities vide Annexure No. 2.

6. Having examined the contentions of the applicant, as stated in the application, in the light of the above stated facts, we find no fault with the impugned orders because the respondents have acted in full compliance of the directions given in the judgment in the case of U.P. State Road Corporation (supra). The Hon'ble High Court order, which the applicant has filed with the O.A. as Annexure-14 and another filed by respondents alongwith Counter affidavit is to the effect that the decision of the Supreme Court is the law of the land and the opposite parties are expected to comply with the same. If the petitioner(applicant) is denied preference in accordance with rules and judgment of the Apex court, he could not have ^{no} the cause of action to file the writ petition again. The ~~writ~~ ^{relief} petition was accordingly declined to be entertained being premature. Thus, in this judgment of Hon'ble High Court, we do not find any mandate as alleged by the applicant given to the respondents, to give him appointment afresh, and once it was offered and the applicant did not join the post, at Gangtok (Sikkim), for reasons best known to him, lame excuses, as stated in the O.A. do not grant him any fresh cause of action to ask for appointment by the respondents when he has already reached the age of 42.

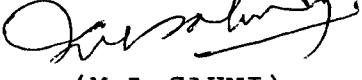
and the two judgments relied upon by him cannot render any help to him in this case. Accordingly, the O.A. is found devoid of merit, hence it is dismissed. No order as to costs.



(S.C.CHAUBE)

Member (A)

s.a.



(M.L.SAHNI)

(Member (J)