

(7)

CAT/3/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT SITTINGS AT AURANGABAD.

~~XXXXXXXXXXXX~~

NEW BOMBAY BENCH

O.A. No. 597/87
T.A. No.

198

DATE OF DECISION 19-7-1988

Krishna Narayanrao Bhilwade Petitioner

Shri Suresh Kulkarni Advocate for the Petitioner(s)

Versus

Director General (P&T) and others Respondent

Shri D.Y.Lovekar. Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. B.C.Gadgil, Vice-Chairman.

The Hon'ble Mr. P.Srinivasan, Member (A).

1. Whether Reporters of local papers may be allowed to see the Judgement? -49
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement? / NO
4. Whether it needs to be circulated to other Benches of the Tribunal?

(8)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT SITTING AT AURANGABAD.

O.A.No.597/87

Krishna Narayanrao Bhilwade
R/O Sugandhi Niwas,
Johariwada,
Aurangabad-431001.

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Applicant

V/s

- 1) Director General,
Ministry of Communication,
Deptt. of Posts, Dak Tar
Bhavan, Parliament Street,
New Delhi.
- 2) General Manager,
Telecommunication,
Maharashtra Telecom Circle,
Old GPO Building,
Bombay-1
- 3) Senior Post Master,
Head Post Office,
Aurangabad-431001

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Respondents.

Coram: Hon'ble Vice-Chairman Shri B.C.Gadgil
Hon'ble Member(A) Shri P.Srinivasan.

Appearances:

Dated: 19-7-1988.

Shri Suresh Kulkarni for the applicant.

Shri D.Y.Lovekar for the respondent.

ORAL JUDGEMENT: (Per Shri B.C.Gadgil, Vice-Chairman)

The applicant who is working as Postal Assistant and who also holds Diploma in Electrical Engineering has challenged the action of the department in not accepting his application for the post of Junior Engineer in the direct recruitment quota. Few relevant facts can be stated as follows:-

2. The department inserted an advertisement in the "Maharashtra Times" dated 6-1-1987 calling eligible persons to apply for the post of Junior Engineer before 10-1-1987. The applicant made an application and sent it through his office. At the stage of argument of this application it is not now in dispute that the application was received by the appropriate authority on 12-1-1987 and it was within the time, because the 10th and 11th January were holidays. Thus only ground on which the application was rejected is this that the applicant was over age as he was more than 27 years of age. The applicant's contention is that he being departmental candidate the upper age limit would be 40 years for him and the rejection of application would thus be bad.

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3. The respondents resisted the application by filing the reply. They contended that the recruitment rules provide that $83\frac{1}{3}$ per cent posts would be filled by direct recruitment and the remaining $16\frac{2}{3}$ per cent by promotion. As far as direct recruits are concerned the recruitment rules has fixed the maximum age limit as 27 years. This age is relaxable by five years only in the case of Schedule Cast and Schedule Tribe candidates. Apart from this relaxation there is no other provision for relaxation either for the departmental candidates or for anybody else.

4. In view of the Recruitment Rules, it will be very difficult for Mr. Kulkarni to contend that the recruitment rules allow relaxation of age limit upto 40 years for departmental candidates for ~~the~~ direct recruitment. He, however, contends that there is a sort of promissory estoppel in as much as at the time of earlier recruitment in 1984 the department has inserted advertisements in the newspapers mentioning therein that upper age limit for departmental candidate would be 40 years. In our opinion, the said advertisement of 1984 is irrelevant for the purpose of considering ~~of~~ the claim of the applicant. It is more so, as it is not the case of the applicant that the advertisement which he replied included ^a Clause that the age limit for the departmental candidate would be 40 years. It is also material to note that various Regional Offices were inserting advertisements in a different manner. Some of them had mentioned in the advertisement the upper age limit of 40 years in case of departmental candidates. The department however, issued a Telex Message on 13-2-87 that the relaxation ^{recruitment} rules do not provide ^{for} such relaxation for departmental candidates and that ^{the} candidature of ~~these~~ ^{those} such candidates ^{who were} ~~those~~ who are more than 27 years should be cancelled. Mr. Lovekar for the respondents made a statement that no departmental candidate having age of more than 27 years has been considered for selection by permitting him to appear for the examination.

5. We have already observed that 1984 advertisement is not relevant. The advertisement which the applicant replied did not contain any clause so as to mislead the

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applicant. It will not be possible for the applicant to contend even remotely that his case would ^{be} ~~cover~~ governed by ~~applying~~ the principle of promissory estoppel. The result is that the application fails and is dismissed with no order as to costs.

B.C. Gadgil

(B.C. Gadgil)
Vice-Chairman

P. Srinivasan

(P. Srinivasan)
Member (A)