

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

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NEW BOMBAY BENCH

CAMP AT NAGPUR

O.A. No. 195/87

198

T.A. No.

(B)

DATE OF DECISION 20-7-89

Digambar Gajanan Tiwalkar Petitioner

Shri P.L.Deshpande Advocate for the Petitioner(s)

Versus

Union of India &amp; others. Respondent

Shri Ramesh Darda Advocate for the Respondent(s)

## CORAM :

The Hon'ble Mr. P.S.Shah, Vice-Chairman

*P.S.Shah*

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

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

*J.M.**No*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH CIRCUIT SITTING  
AT NAGPUR.

No. 195/87

(W)

Digambar Gajanan Tiwalkar  
C/o Asstt. Engr.  
Phones, Amravati.

Applicant

V/s

- 1) Union of India,  
Director General P&T  
New Delhi. }  
2) Divisional Engineer,  
Amravati. }  
3) S.D.O. Phone, Amravati. }
- Respondents.

Appearances:

Shri P.L. Deshpande, Adv.  
for the applicant.

Shri Ramesh Darda Adv.  
for the respondents.

Coram: Hon'ble Mr. P.S. Shah, Vice-Chairman

Hon'ble Mr. P.S. Chaudhuri,  
Member (A).

Dated: 20-7-89

(Oral Judgement : Per Shri P.S. Shah, Vice-Chairman)

The petitioner was appointed as a part-time waterman-cum-sweeper in the office of the Sub Divisional Officer, Phones, Amravati with effect from 1st July, 1969 under memo No. E.9/76 dated 10-9-69 of S.D.O. Phones, Amravati. He worked in that capacity from 1-7-69 to June 1975. During a part of the period he also worked as Casual Labour on daily wages. The Divisional Engineer Telegraphs, Nagpur by letter dated 20-8-75 asked for his birth certificate for consideration for appointment of the petitioner in Class IV post. The petitioner was selected, as he fulfilled the conditions of eligibility. In the mean time Emergency was declared by the Union of India and there was ban on recruitment of Class IV employees. However, later the respondent No. 2 invited applications for recruitment to the cadre of linemen, and the recruitment in the group 'D' post (non-technical category) were called for.

(S)

The petitioner was called for an interview and was interviewed for his recruitment in group 'D' post (non-technical category). There were two important conditions for ~~he is~~ being eligible for appointment to the said post. The first condition was that the casual employee should have been engaged through employment exchange. The second condition was that the candidates age should be within 18 to 25 years as on 1-7-1980 deducting the number of days of service he has put as casual labour. The petitioner fulfilled the first requirement namely that he was Casual Mazdoor engaged through employment exchange. However, he was not selected on the ground that the ~~said~~ second condition regarding age was not fulfilled.

2. Hence, candidature for the said recruitment to the cadre of linemen and recruitment to the group 'D' post (non-test category) could not be considered by the respondents. Later on as per letter No. 45/19/83-SPBI dated 11-11-1983 from DGP&T, New Delhi the age limit was relaxed for the 'Casual Mazdoors' who were working prior to 2-3-1979. The petitioner has been admittedly working prior to 2-3-1979 as a Casual Mazdoor. Consequent upon the relaxation of age limit for the said recruitment the DCP held on 19-3-1984 for group 'D' (non-test category) considered his case for age relaxation ~~and then~~ and accordingly the posting order of the petitioner was issued as a 'regular Mazdoor' under Asstt.Engineer,Phones,Amravati vide D.E.T. Amravati letter No. E-16/Rectt/Gr.D/NTC/233/ dtd. 13.7.1984. Thus with effect from 13-7-1984 the petitioner has been appointed as a regular Mazdoor.

3. Now the only contention of the petitioner is that he was entitled to be appointed as a regular Mazdoor. Mr. Darda the learned advocate appeared for the respondents submitted that petitioner's claim for being appointed as a regular Mazdoor with effect from 1st July, 1980 is untenable because he was over age for the recruitment in group 'D' post by 9 months and 28 days. <sup>and</sup> Since, no relaxation of age was then permissible. In the reply to the petition, the respondents have given the details of the length of service of the petitioner as a Casual Labour prior to his recruitment as a regular Mazdoor. This information is contained in paragraph 6 of return of the respondents, and the calculations show the total service put in by the petitioner as Casual Labour from 1-10-1970 to 1-7-1980, comes to 9 years, 2 months and one day. Taking into consideration of the date of birth of the petitioner, namely 2-7-1945, on 1-7-1980 his age was 34 years, 11 months and 29 days. Deducting the period of 9 years, 2 months and one day of his total service, the petitioner obviously was over age by 9 months and 28 days on 1-7-1980. Yearwise calculation of service as disclosed in the return of the respondents has not been challenged by the petitioner by filing a rejoinder. Since no relaxation of age was permissible earlier, petitioner's claim for his appointment with effect from 1-7-1980 is ~~not~~ maintainable.

4. No other point was urged on behalf of the petitioner. The petition therefore is not entitled

to any relief than the one granted by the Department. The petition therefore fails and stands dismissed. No order as to cost.



(P.S. Chaudhuri)  
Member(A)



(P.S. Shah)  
Vice-Chairman.