

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

O.A.858/89

1. Subhash Y. Ahire,
Shivaji Nagar,
Ganesh Chawl,
Valdhuni,
Kalyan.

2. Krishna K. Uttekar
Moreshwar Atmaram Koli Chawl,
Jethabhai Road,
Ghatkopar(East),
Bombay - 400 077.

.. Applicants

vs.

1. Chief Post Master General,
Maharashtra Circle,
Bombay - 400 001.

2. Senior Superintendent RMS,
Bombay Sorting Division,
Bombay - 400 001.

.. Respondents

Coram: Hon'ble Member(A) Shri M.Y.Priolkar

Hon'ble Member(J) Shri T.Chandrasekhara Reddy.

Appearances:

1. Mr.M.T.Thackar,
Advocate for the
Applicants.
2. Mr.S.R.Atre,
for Mr.P.M.Pradhan
Advocate for the
Respondents.

ORAL JUDGMENT:

Date: 5-3-1991

(Per M.Y.Priolkar, Member(A))

The two applicants in this case were working as Accounts Clerk and Tea Maker in a departmental canteen of the Posts and Telegraphs Department in Bombay on regular basis with effect from 1-5-1985 and 1-11-1986, respectively. They have been retrenched from 1-10-1988 on closure of the departmental canteen.

2. The grievance of the applicants is that although orders dated 15-9-1983 and 26-9-1984(items 9 and 12 of Annexure 12) were issued by the Govt. providing for certain relaxations in favour of employees of Departmental canteens for recruitment to certain departmental posts, evidently with a view to facilitate

continued employment of such employees who were to be retrenched due to the closure of the departmental canteens, the benefit of these concessions was not extended to the applicants on the ground that they were overaged at the time of their initial appointment in the departmental canteen.

3. Admittedly, there were eight employees at the relevant time who were retrenched on closing down of the departmental canteen. Out of these except the two applicants, all the remaining six have been accommodated as Group 'D' employees on daily wages. These two applicants were also initially appointed in the same capacity, as the others immediately after closure of the canteen, but their services were terminated even from these posts after only a few days.

4. The learned counsel for the respondents argued that the Government orders dated 15-9-1983 and 26-9-1984 cited by the applicants are applicable only to serving departmental canteen employees and once their services are terminated, they could not claim the benefit of the concessions granted under these circulars. Evidently, the object of these circulars was of facilitating continued employment of employees like the applicants who had put in long service as regular employees in the departmental canteens and were facing the prospect of being thrown out of employment due to the policy decision of closing down of the departmental canteen. It was also argued on behalf of the respondents that even for casual workers, one essential condition is that the candidate should be below 25 years of age and this condition was fulfilled in the case of the remaining six candidates but not by these two applicants.

5. It is clear from the circulars referred to above that the Government has permitted the employees of the departmental canteens to appear for recruitment examination or selection for other posts by giving them age concession upto a maximum age limit of 35 years. Admittedly, these two applicants are still below 35 years of age. While strictly speaking, the age concession granted is for serving employees appearing for written examinations or selection tests for regular posts, we do not see any justification why these applicants should not be given the same age concession at least for employment on casual basis now in the department, merely on the ground that they were over aged at the time of their initial appointment in the departmental canteen. We are inclined to take this view because it was conceded by the learned counsel for the respondents that right from the issue of the circulars of 1983 and 1984 till their retrenchment in October, 1988, no examination or selection was conducted by the department for any other posts where the applicant or other departmental canteen employees could have appeared with the age concession, as there was a ban on fresh recruitment during all these years, which is no longer in operation.

6. In the circumstances, we direct that these two applicants should be considered for appointment at least as casual workers on daily basis or otherwise for any work which does not require any specialised experience irrespective of the age limit, if they possess the requisite educational qualifications, before recruiting any candidates from the open market for such work, unless the applicants are not found fit by the appropriate

selection authorities. They should later on be considered for regularisation in their turn in accordance with law. There will be no order as to costs.

T. Chandrasekhar
(T.C.REDDY)
Member(J)

M.Y. Priolkar
(M.Y.PRIOLKAR)
Member(A) 5381