ORIGINAL APPLICATION NO: 157/2001

DATE OF DECISION: 6/07/2001

Shri Mirza Iftekhar Baig   Applicant

Shri R.T. Nagargoje
---Advocate for
                                                 Applicant.

Versus

The Principal Jawahar Navodaya
---Respondents.
Vidyalaya, Nanded and others

Shri V.S. Masurkar   Advocate for
---Respondents.

Coram:
Hon'ble Shri Justice B.Dixit, Vice Chairman
Hon'ble Smt. Shanta Shastry, Member(A).

   1. To be referred to the Reporter or not?

   2. Whether it needs to be circulated to
      other Benches of the Tribunal?

   3. Library.

                              (Smt. Shanta Shastry)
                                  Member(A)

abp

CORAM: HON'BLE JUSTICE SHRI B.DIXIT, VICE CHAIRMAN
HON'BLE SMT.SHANTA SHASTRY, MEMBER(A)

Mirza Iftekhar Baig
R/o.Degalur Naka, Rahemat Nagar,
Near Maharaj Masjid,
Nanded, Dist.Nanded.   ... Applicant

By Advocate Shri R.T.Nagargoje

        V/s.

1. The Principal
   Jawahar Navodaya Vidyalaya,
   Shankar Nagar, Tq. Billoli,
   Dist.Nanded.

2. The Collector,
   Collector Office,
   Nanded, Dist.Nanded.

3. Maruti Munjaji Gange,
   Driver, R/o.Sohan Cycle Taxi,
   Lohar Galli,
   Old Mondha, Nanded.   ... Respondents

By Advocate Shri V.S.Masurkar

                    (ORAL)(ORDER)

              Per Smt.Shanta Shastry, Member(A)

        The applicant has prayed in this OA to set aside the
appointment order dated 16/2/2001 issued in favour of Respondent
No.3 by the Principal, Jawahar Navodaya Vidyalaya, Shankar Nagar,
Tq.Billoli, Dist.Nanded and to direct the respondents to issue
appointment order in favour of the applicant by considering the
merits as per the advertisement, of the case.

2.   The respondents had advertised the post of Driver in the
Navodaya Vidyalaya, Shankar Nagar, Nanded. Applications had been
invited to be reached on or before 20/1/2000. After considering the
applications, the respondent no.3 was selected and given the

                                                        ...2.

appointment order vide letter dated 16/2/2001. The applicant is aggrieved by this order as according to him the respondent no.3 was over-aged. According to the advertisement, the age limit prescribed for the post was between 18 to 30 years as on 1/1/2000. The respondent no.3 had crossed the age of 30 years as on that date. Therefore, the appointment of the respondent no.3 is illegal. Further, the applicant submits that amongst those who fulfilled all the conditions, he had better merit.

3.   The applicant has also produced a document issued by the Assistant Traffic Regional Officer, Nanded on 11/2/69 showing the age of the respondent no.3. Therefore according to the applicant, the respondent no.3 was not at all eligible for consideration.

4.   The official respondents have admitted that the respondent no.3 was over aged but being from the OBC community age relaxation was granted to him and thus he came to be appointed as Driver. However, the learned counsel for the respondents has now produced office memorandum issued by the Ministry of Personnel and Public Grievance, Department of Personnel and Training dated 1/7/1992 wherein it has been clarified that the relaxed standard including relaxation in age limit, etc shall not apply while considering candidates against general posts. The present post of Driver was notified for the general category and as such there was no question of age relaxation. Therefore, the action of the respondents in selecting and appointing respondent no.3 is in contravention of the rules and is not correct. As such, the impugned order dated 16/2/2001 deserves to be quashed and set aside. We do so

...3.

accordingly. As far as the claim of the applicant is concerned, it is a selection post to be filled by selection based on merit. Without going into further merit, we direct that the respondents shall hold a fresh selection for the post of Driver. All those who had applied in response to the earlier notification shall be considered for selection without their making any fresh application alongwith other fresh candidates. The OA is disposed of accordingly. No costs.

(SHANTA SHASTRY)
MEMBER(A)

(B.DIKSHIT)
VICE CHAIRMAN

abp