

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: OA/1115/92.

Transfer Application No:

DATE OF DECISION: 22. 6. 1996.

Shri P. S. Rane & Others Petitioner

Shri Uttam Verma, Advocate for the Petitioners

Versus

Department Of Posts, Respondent

Shri P. M. Pradhan, Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri B. S. Hegde, Member (J).

The Hon'ble Shri M. R. Kolhatkar, Member (A).

1. To be referred to the Reporter or not ?
2. Whether it needs to be circulated to other Benches of the Tribunal ?


(B. S. HEGDE)
MEMBER (J).

(11)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH.

C.A. 1115/92.

Shri P. S. Rane & Others ... Applicant
Versus
Department Of Posts ... Respondents.

CORAM : Hon'ble Shri B. S. Hegde, Member (J).
Hon'ble Shri M. R. Kolhatkar, Member (A).

APPEARANCES

1. Shri Uttam Verma,
Counsel for the Applicant.
2. Shri P. M. Pradhan,
Counsel for the Respondents.

ORAL JUDGEMENT

DATED : JUNE 22, 1994.

¶ Per B. S. Hegde, Member (J) ¶

1. The Applicants in this O.A. have challenged the orders of the Respondent vide dated 22.10.1992 and 23.10.1992 respectively issued on the ground that they are not qualified to appear for the examination to be held on 08.11.1992 as they were found overaged at the time of initial engagement and they do not fulfill the condition of educational qualification required as per the latest rules of recruitment. However, in para 5 of the reply of the respondent, the condition of eligibility under the order dated 27th Augst, 1990 are as under :-

81

"(1) age at the time of initial engagement of the outsider not below 18 years and above 25 years (relaxation of five years for S.C. and S.T.), (2) education qualification : 8th standard passed in respect of outsider Postmen working prior to 25th September, 1987

: 2 :

(3) as daily wage postmen should have worked for atleast 240 days in any two years, (4) he/she must be employed as daily wage postman as on 16th July, 1990 (5) he/she must pass the prescribed examination.

2. In the light of the above only, respondents can reject the candidates who are otherwise not eligible in terms of educational qualification but not on the ground of being over-aged and lacking educational qualifications required as per latest rules of recruitment. Since the respondents have already conceded that at the time of engaging the Applicant, the minimum education qualification was 8th standard and not S.S.C. as is now imposed. In view of the Department Of Personnel circular, the respondent is duty bond to relax the age of the Applicant and they should be given an opportunity to appear for the exam ignoring the overage of the applicant in view of the past services rendered by them for the last 8 to 10 years without any break.

3. During the course of hearing, the Applicants submit that all the applicants were allowed to appear for the same and only one applicant has passed and his service has been regularised. In the circumstances, Counsel prayed that they may be given one more opportunity for appearing for the examination keeping in view the decision of the Bangalore Bench of Tribunal in the case of Shri G. Manjunath and Others v/s. Postmaster General, Bangalore and Others (1992) 20 ATC (FB) 402 Full Bench, which reads as follows :-

"The applicants have undisputedly worked against the long term vacancies during the last 5 to 8 years and have completed 240 days service in one or more years. Further they held these posts even after the 10 per cent leave reserve as provided in the cadre of Postman has been fully utilised. They have been working against clear and regular vacancies. Despite the above, they do not acquire any right to continue in these posts unless they qualify in the examination prescribed in the Recruitment Rules, 1969. For this purpose they shall be allowed two additional chances duly granting them relaxation of age, if required, to enable them to appear in the said examination. Further their services shall not be dispensed with till they have availed of the said two additional chances to qualify in the prescribed examination in terms of 1969 Recruitment Rules. If they qualify in the examination they should be considered for regularisation against the posts of Postmen and not otherwise."

4. Keeping in view of the ratio laid down by the Full Bench in the aforesaid decision, it is evident that the grounds of rejection by the Respondent on account of overage and Educational Qualification as per latest rules of recruitment, are not sustainable being contrary to the circular issued by the Department Of Personnel and the stand taken by them in their reply to the O.A. In the circumstances, the respondent is hereby directed to give one more opportunity to all the applicants to appear for the examination provided they are otherwise qualified as per the criteria laid down

: 4 :

by the respondent at para 5 of the reply and in accordance ^{with} ~~with~~ the new conditions. Incase they pass the examination, their services may be regularised. Till they appear for the examination and their result is published, they may be allowed to continue on daily wage⁰ basis and if they are unsuccessful, it is upto the respondent to take appropriate action in accordance with the law.

5. The O.A. is disposed of in the light of the above.

M.R. Kolhatkar
(M. R. KOLHATKAR)

MEMBER (A)

B. Hegde
(B. S. HEGDE)
MEMBER (J).