

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 1230/92

Transfer Application No: ---

DATE OF DECISION 16. 3. 93

R. Manmohan

Petitioner

Mr. M.A. Mahalle

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Mr. R.K. Shetty

Advocate for the Respondent(s)

CORAM:

The Hon'ble ~~Mr.~~ Ms. Usha Savara, Member(A)

The Hon'ble Shri V.D. Deshmukh, Member(J)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
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 ?

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(Signature)
16. 3. 93.
(USHA SAVARA)
Member(A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.1230/92

R. Manmohan
C/o. R. Kumaresan,
T/40/7, Transit Camp,
Homi Bhabha Road,
Navy Nagar,
Colaba,
Bombay - 400 005.

.. Applicant

-versus-

1. Union of India
through
Secretary,
Ministry of Defence,
South Block,
New Delhi.
 2. Garrison Engineers
(Naval Works),
Dr. Homi Bhabha Road,
Navy Nagar,
Colaba,
Bombay - 400 005.
 3. Commander Works Engineer,
Naval Works,
Dr. Homi Bhabha Road,
Navy Nagar,
Colaba,
Bombay - 400 005.
 4. Chief Engineer,
Dakshin Kaman Mukhyalaya,
Headquarters,
Southern Command,
Engineers Branch,
Pune - 411 001.
 5. Engineer-in-Chief's Branch (EIC),
Army Headquarters,
DHQ PO
New Delhi - 110 011.
- .. Respondents.

Coram: Hon'ble Member(A) Ms. Usha Savara,
Hon'ble Member(J) Shri V.D. Deshmukh.

Appearances:

1. Mr. M.A. Mahalle
Advocate for the
Applicant.
2. Mr. R.K. Shetty
Counsel for the
Respondents.

JUDGMENT:
(Per Usha Savara, Member(A))

Date: 16.3.92.

The applicant, whose name was sponsored
by the Employment Exchange for the post of

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Switchboard Attendant was appointed on casual basis from 12-1-1984. The appointment was for 89 days at a time and the applicant continued to work with artificial breaks till 21-2-86. He was appointed on daily wage basis from 11-4-86 to 29-2-87.

2. The applicant was called for an interview on 15-4-87, and again on 29-10-87. Since he did not get an offer of appointment from the respondents, he sent a representation on 8-9-1988, in response to which he was informed by the Chief Engineer in his letter dated 27-9-88 that his case had been referred to C.E.S.C. for obtaining Govt. sanction. On 11-11-88, the Chief Engineer recommended the case of the applicant and one Shri N.A. Konkar for age relaxation to the Engineer-in-Chief Army Headquarters, New Delhi as they fulfilled all other conditions of recruitment rules. Since there was no communication from the respondents thereafter, the applicant has approached this Tribunal praying for a direction to the respondents to regularise the appointment of the applicant in the status of Electrician w.e.f. 12-1-84 and further consequential reliefs, ^{and} due seniority may also be given to the applicant.

3. A reply has been filed by the respondents. Shri Shetty, learned counsel for the respondents has resisted the applicant's claim on the ground that he does not possess the qualification for the post of Electrician as prescribed by Govt. of India Notification dt. 12-9-91(R 2). The post of Switch Board

Attendant was abolished by letter dated 24-6-87 (Ex.R-1) and now there is no post or vacancy available to which the applicant could be appointed. The respondents do not dispute the facts as related by the applicant. It is also admitted by them that at the time of his initial appointment, the applicant was within the age limit. A special approval was necessary for relaxation of minimum age and his case had been recommended, but now he could not be appointed.

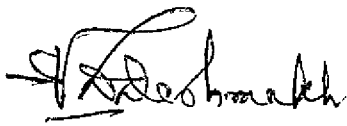
4. We have heard the learned counsel for the applicant Shri MA Mahalle as well as the learned counsel for the respondents Mr.R.K. Shetty. The same pleas had been raised in O.A: 146/90, decided on 22-11-1991 by a Bench of this Tribunal. It was held that the applicant had attained temporary status after continuing for more than 120 days. He had been sponsored by the Employment Exchange and was a qualified Wireman. Some other appointees had been granted age relaxation, and there was no reason to discriminate against the applicant as he was similarly situated. A direction was given to consider his case for age-relaxation and appoint him to the post of Switch Board Attendant or Electrician, as it was now known.

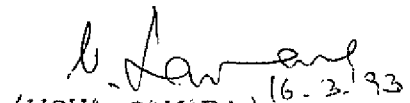
5. The applicant's case is on all the fours with the case of Shri N.A.Konkar. He was also sponsored by the Employment Exchange and was within the age limit at that time. The requirement of I.T.I. certificate was only introduced in September, 1991 and the applicant had been interviewed in 1988 and his case was recommended

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for age relaxation in 1988, when this requirement was not there. Admittedly, the nomenclature of "Switchboard Attendant" has been changed to "Electrician" now, so the abolition of that post is of no consequence. He attained temporary status as his appointment continued for more than 120 days. Since age relaxation had been granted to others, not granting him the same would be unfair and not justified. The case law cited by Shri Shetty is not applicable to the facts of the case.

6. The respondents are, therefore, directed to consider the applicant's case for age relaxation, as was granted to Shri Konkar and others. He may be appointed to the post for which he was interviewed, despite change in nomenclature within three months of receipt of copy of this order. There is no order as to costs.


(V.D. DESHMUKH)
Member(J)


(USHA SAVARA) 16.2.93
Member(A)

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