

25

CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH AT
HYDERABAD.

..

O.A.No. 95/90.

..

Date of order: 21.6.90.

Between:

T. Anoop Kumar.

..

Petitioner

Vs.

The Chief Engineer (Project),
Research and Development, Picket,
Secunderabad and another.

..

Respondents.

M/s B.G.Ravindra Reddy, M.Vijayakumar
and Y.S.Venkata Rao, counsel for the
Applicant.

Sri N.Bhaskar Rao, Additional Standing
Counsel for the Central Government.

CORAM:

Hon'ble Sri J.Narasimha Murty, Member(Judicial).

Hon'ble Sri R.Balasubramanian, Member(Administrative).

Judgment of the Bench delivered by
Hon'ble Sri J.Narasimhamurthy,
Member (Judicial).

--:-

This application is filed seeking a declaration
that the action of the 1st respondent in not giving appoint-
ment to the applicant as L.D.Clerk though he was duly selected
as illegal, arbitrary and violative of Articles 14,16 and 21
of the Constitution and to direct the respondents to appoint
the applicant as L.D.Clerk with effect from the date when
he was selected with all consequential benefits.

2.The averments in the application are as follows:

3.The Applicant registered his name in the Employ-
ment Exchange, Hyderabad in the month of July,1976 after
passing SSC Examination and also Typewriting Lower. The

Chief Engineer(Projects) R & D requested the Employment Officer to sponsor candidates for the post of L.D.C., in the office of 1st respondent. The applicant was one of the candidates sponsored by the Employment Exchange for the post of L.D.C., pursuant to the request of the 1st respondent. In the month of July, 1984, the applicant and others were asked to sit for the written test and thereafter for an interview. The applicant came out successful in the written as well as oral tests. The applicant was declared selected and in the month of August, 1984, he was asked to produce the Medical Fitness Certificate after verifying his antecedents. Unfortunately, before he could be appointed as L.D.C., after his selection in the month of October, 1984 a ban was imposed on recruitment by the Government of India. The ban continued to be in existence till February, 1986. The applicant made enquiries as to the fate of his selection as L.D.C. The applicant was assured by the 1st respondent that after lifting of the ban, he would be appointed as L.D.C., as all the formalities were already over. The applicant was under the bonafide impression that he would get appointment as L.D.C.

4. The applicant states that on 22--1--1987 he received a telegram from the 1st respondent wherein he was asked as to whether he was prepared to join in case age is relaxed in his favour. The applicant immediately approached the 1st respondent in person and submitted his willingness and also other papers which were required by the 1st respondent duly certified by the District Magistrate.

5. The 1st respondent by letter dated 27-5-1987 wrote to the District Employment Officer (Clerical) Musheerabad

wherein it was stated that the applicant was selected to the post of L.D.C., but could not be offered appointment due to some administrative reasons and that he is not likely to be appointed in the near future and therefore, ✓ his seniority should be restored. The applicant approached the 1st respondent again personally and enquired about his fate. He was informed that the matter was already referred to the Government of India and they are awaiting reply from them and like that the matter was dragged on. Finally, the applicant wrote a letter on 14--10--1989 to the 1st respondent bringing all the facts to his notice and requested for his immediate appointment as L.D.C. The 1st respondent by his letter dated 4--12--1989 informed the applicant that though he was offered appointment, the Higher Authorities informed the respondents that sanction for age relaxation will not be granted by the Government and therefore no further action can be taken on his application.

6. The applicant states that at the time of sponsoring his name for the post of L.D.C., he was only 24 years old and as ~~he was~~ the 1st respondent has informed the Employment Officer that the applicant was selected for the post of L.D.C., the Employment officer has not sponsored his name to any other department. The Employment Officer informed the applicant that his employment card was treated as "Placement Card" as he was already selected by the 1st respondent for appointment as L.D.C.

7. The applicant states that on the date ~~of~~ his name was sponsored by the Employment Officer for appointment, he was well within the age limit. The 1st respondent errored in stating that the applicant has

~~erred in stating that the applicant has become overaged.~~

It is well settled that the age at the time of sponsoring is the only criteria. The applicant states that the Ministry of Defence by its Circular dated 28-3-1982 informed all the Departments that for determining the age limit for direct recruitment to Group C and D posts which are to be filled up through Employment Exchange, the crucial date for determining the age limit will be the last date upto which the Employment Exchanges are asked to submit the names of candidates. It is also made clear by the Ministry of Personnel Affairs that a panel of selected candidates will remain valid and in force till all the candidates therein are appointed. The applicant has become over aged for appointment as L.D.C., not due to his fault but due to the fault of the Department and therefore he cannot be penalised for their mistake. The action of the applicant in not appointing him as L.D.C., is illegal, arbitrary and violative of Articles 14, 16 and 21 of the Constitution. Hence the application.

8. The respondents have filed the counter contending as follows:

The respondents deny the statement of the applicant that he was asked by the respondents to produce Medical Fitness and Verification of antecedents of the applicant. It is also not correct that the applicant was given assurance that he would be appointed.

9. The respondents state that LRs for 50 vacancies have been released for L.D.Cs., and 782 candidates were sponsored by Employment Exchange Hyderabad by letter No. C/99/84 dated 4-4-1984. An interview of L.D.Cs, was held

on 30th June, 1984 and the names of few individuals were approved by the Board. But due to a ban imposed by the Government, he ~~xx~~ could not be offered appointment at that time. However, since there is a ban imposed by the Government is existing, there is no likelihood of getting age relaxation sanction and hence ~~xx~~ they have requested the Employment Exchange to allow his name alive for getting future employment assistance and the applicant was informed by their letter No. 10006/LDC/600E1B dated 27--5--1987 so that he may try to get appointment elsewhere. Until and unless sanction for local recruitment is accorded by the higher Authorities no one can be offered the appointment as the L.D.C., are now surplus in MES.

10. The respondents state that at the time of interview the individual was 24 years 7 months old. The applicant's name was approved by the Board but due to ban, he could not be offered appointment and the ban still continues. The applicant cannot be given appointment as there is surplus staff. The statement of the applicant that he was intimated the fact on 14--10-1989 is not correct. He was informed the full facts on 27--5--1987. The Authority of Ministry of Defence dated 28--3--1982 has not been circulated to them. They state that as per practice in force in the Department, the applicant should be within age at the time of appointment.

11. Since the applicant was already informed that no offer of appointment could be given for administrative reasons as early as 27th May, 1987 and further the employment Exchange was also informed that the applicant's name may be kept alive, the cause of action arose as early as 27th May, 1987, the O.A., is belated and the same is liable to be dismissed. There are no merits in the

the application and it is liable to be dismissed.

12. Heard M/s B.G.Ravindra Reddy, M.Vijaya Kumar and Y.S.Venkata Rao, learned counsel for the applicant and Sri N.Bhaskar Rao, learned Additional Standing counsel for the respondents.

13. The respondents state that the applicant was already informed that no offer of appointment could be given for administrative reasons as early as 27th May 1987 and further Employment Exchange was also informed that the applicant's name may be kept alive, the cause of action arose as early as 27th May, 1987 and the O.A., is belated and the same is liable to be dismissed on this ground.

14. The Applicant states that immediately after the receipt of the copy of letter dated 27-5-1987 written by the respondents to the Employment Exchange, he approached the 1st respondent personally and enquired about his fate. He was informed that the matter was already referred to the Government of India and they are awaiting reply from them in that regard and like that the matter was dragged on. Finally, the applicant wrote a letter on 14--10--1989 to the 1st respondent bringing all the facts to his notice and requested for his immediate appointment. The 1st respondent by his letter dated 4--12--1989 informed the applicant that though he was offered appointment, the authorities informed them that sanction for age relaxation will not be granted by the Government and therefore, no further action can be taken on his application. The applicant was finally informed that he cannot be offered appointment on 4--12--1989. Thereupon he approached the

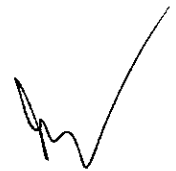
the Tribunal by filing O.A., 1--2--1990. Therefore the application is within time as the time for limitation runs from 4--12--1989. Therefore this contention of the respondents is rejected.

15. The respondents further contend that the applicant is not a Central Government Employee and therefore the application should be dismissed in limine.

16. Though the applicant is not a Central Government Employee, he ~~had not~~ was sponsored by the Employment Exchange, he appeared for the written as well as oral tests and come out successful and he was selected by the Board. Because of the Ban he was not offered appointment. Subsequently he was informed that he is over-aged and could not be given appointment in the Central Government. As the applicant is questioning the action of the respondents and as he offered his services to the Central Government by appearing to the written test and oral tests, the application is well within the jurisdiction of this Tribunal. The contention of the respondents that the application is liable to be dismissed in limine is rejected.

17. Now the short point^{that}/arises for consideration is:

What is the Crucial date for determining the age limit for appointment of the Applicant as L.D.C., in the Respondents' Organisation?



18. It is an admitted fact that the Petitioner had registered his name in the Employment Exchange after passing the S.S.C. Examination and Typewriting Lower Grade Examination. It is also a fact that the Respondents asked the Employment Exchange to sponsor the names of the Candidates for the post of L.D.Cs., and Employment Officer sponsored the names of candidates of which the Applicant is one among them. The applicant stood ^{for} the written test and oral test. He was selected by the Board for appointment. But the Appointment could not be offered to him as there is a ban imposed by the Government of India at that time. At the time of sponsoring his name the applicant was 24 years of age. By the date of interview, he was ^{aged 24} ~~27~~ years ⁷ ~~8~~ months. Therefore, at the time of sponsoring the name of the applicant, ~~at~~ on the date of written test and on the date of oral interview, he was well within the age limit of 25 years for appointment in the Central Government.

19. The respondents have also admitted that the applicant was selected for the post of L.D.C., but due to ban, he could not be offered appointment and therefore they addressed a letter to the Employment Exchange stating that there is a ban imposed by Govt., and that there is no likelihood of getting age relaxation sanction and requested the Employment Exchange to allow his name ~~active~~ for getting future employment. The applicant was informed by the Employment Officer that the Employment Card was treated as "Placement Card" and therefore he lost his seniority in the Employment Exchange.

9.

20. In this connection it is relevant to read the Extract of Ministry of Defence U.O.No. 1(5)/77/D(Appts) dated 28th March, 1982 which reads as follows:

" MINISTRY OF DEFENCE
D(APPTS)

Sub: Crucial Date for determining age limit for direct recruitment to Group 'C' and 'D' posts which are to be filled through Employment Exchange - provision for in the recruitment rules.

Ref: The Min. of Def. U.O.No.1(9)/79/Appts) dated 22--9--1979 whereunder consolidated instructions of the DPAR were circulated for framing recruitment Rules.

..

Para 3.8.1. of the said instructions stipulated that the crucial date for determining the age limit shall be the closing date for receipt of applications from candidates in India (other than those in Andaman and Nicobar Islands and Lakshadweep). A doubt was raised as to the applicability of this provision in r/o such Group 'C' and 'D' posts as are filled by direct recruitment through Employment Exchange.

2. The DPAR have since clarified that in order to cover recruitment through the Employment Exchange, the required note regarding crucial date for determining the age-limit may be indicated in full as laid down in para 8 of their U.O.No2/66/71-Estt(D) dated the 10th September, 1975 and reproduced below:

"The crucial date for determining the age limit mentioned in col.6 of the Recruitment Rules will in each case, be the closing date for receipt of applications from candidates in India (other than Andaman & Nicobar Islands and Lakshadweep).

In respect of posts, the appointments to which are made through the Employment Exchanges, the crucial date for determining

the age limit will be in each case, be the last date upto which the Employment Exchanges are asked to submit the names".

- Clarification

The above clarification was issued as long back as in the year 1982. It is surprising how the respondents have denied the offer of appointment to the applicant stating that he is over-aged for appointment. The Ministry of Defence in U.D.No.1(5)/77/D(Appts) dated 28th March 1982 in a very clear terms clarified that "in respect of posts, the appointments to which are made through the Employment Exchanges, the crucial date for determining the age limit will be in each case, be the last date upto which the Employment Exchanges are asked to submit the names". In the instant case the applicant was well within age limit of 25 years as on the date of sponsoring his name to the Respondents' Organisation, on the date of written test as well as oral test.

21. The Department of Personnel & Administrative Reforms O.M.No. P.14017/3/83-Estt.(RR) dated 15-4-1983 have also clarified the Crucial date for determining the age limit as under:

"The crucial date for determining the age limit shall be the closing date for receipt of applications from candidates in India (other than those in Andaman and Nicobar Islands and Lakshadweep). In the case of recruitment made through the Employment Exchange, the crucial date for determining the age limit shall be the last date upto which the Employment Exchange is asked to submit the names."

✓ In view of the above clarification, the question of relaxation of age limit in the case of the applicant

To:

1. The Chief Engineer(Project) Research and Development,
Piket, Secunderabad.
2. The Secretary,(Government of India)Ministry of Defence,
New Delhi.
3. One copy to Mr.B.G.Ravinderreddi, Advocate, Plot No.5-C,
Baghamberpet, Hyderabad.
4. One copy to Mr.Naram Bhaskara Rao,Addl.CGSC,CAT,Hyd.
5. One spare copy.

. . .

kj.

ave
27/6
11/10

does not arise. The respondents without thoroughly following the procedure and rules simply denied the offer of appointment to the applicant on the ground that he is over-aged which is not at all correct. The applicant was unnecessarily put to hardship and mental agony. He became over-aged due to the ban imposed by the Government after the petitioner was selected for the post. It is no fault of the applicant.

22. The plea taken by the respondents that the LDC posts are not available and the existing staff is surplus cannot be entertained. The applicant is not at fault. He was denied the offer of appointment under a mistaken impression that the applicant is overaged which is not correct for which the respondents are responsible. If there are no posts, the respondents have to create a supernumerary post and the applicant be offered appointment without any further loss of time even now.

23. In view of the above discussion and in the circumstances we find that the applicant is well within the age limit and the action of the respondents in not giving him offer of appointment is not in accordance with the rules. We, therefore, direct the respondents to give offer of appointment to the applicant within two months from the date of receipt of these orders.

24. The application is allowed. No order as to costs.



(J. NARASIMHA MURTHY)
Member(Judl.)



(R. BALASUBRAMANIAN)
Member(Admn.)

Dated: 21 June, 1990.


Deputy Registrar(J)

12
CHECKED BY RNS
217.

APPROVED BY

TYPED BY

COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. B.N. JAYASIMHA: V.C.

AND

THE HON'BLE MR. D. SURYA RAO: MEMBER (JUDL.)

AND

THE HON'BLE MR. J. NARASIMAHAMURTHY: M(J)

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

DATE : 21-6-90

ORDER / JUDGMENT

M.A./R.A./C.A./No.

in

T.A. No.

W.P. No.

O.A. No. 95/90

~~Admitted and Interim directions Issued.~~

~~Allowed. no costs~~

~~Dismissed for default.~~

~~Dismissed as withdrawn.~~

~~Dismissed.~~

~~Disposed of with direction.~~

~~M.A. ordered/Rejected.~~

~~No order as to costs.~~

