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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 345/90

Date of Order: 3.8.1993

BETWEEN :

N.Srinivas

.. Applicant.

A N D

1. Govt. of India, Ministry of Defence, Ordnance Factory Project, Yeddu-mailaram, Medak District, rep. by its General Manager/DGM/Admin.
2. The District Employment Officer, Medak District at Sangareddy. .. Respondents.

Counsel for the Applicant

.. Mr.P.Naveen Rao

Counsel for the Respondents

.. Mr.N.R.Devraj and
Mr.D.Panduranga Redd

CORAM:

HON'BLE SHRI A.B.GORTHI : MEMBER (ADMIN.)

HON'BLE SHRI T.CHANDRASEKHARA REDDY : MEMBER (JUDL.)

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age limit laid down at the time of initiation of the selection process was 18-35 years, the same should be made applicable to the case of the applicant and the respondents ^{could not} ~~would~~ apply the amended age limit. In this connection he has placed reliance ^{on} the judgement of the Supreme Court in the case of Sri Y.V.Rangaiah Vs. Sri J.Sreenivasa Rao A.I.R. 1983 SC 852. It was held therein that "the vacancies ^{had} ~~had~~ occurred ^{under} to the amended rules would be governed by the old rules and not by amended rules." Mr. ^{Naresh} ~~Devaraj~~ has further drawn our attention to the judgement of the Supreme Court in the case of A.P.P.S.C., Hyderabad Vs. B.Sarat Chandra and others reported in Speed Post Judgements 1990 (2) 510. The relevant portion of the judgement is extracted below:-

"If the word 'selection' is understood in a sense meaning thereby only the final act of selecting candidates with preparation of the list of appointment, then the conclusion of the Tribunal may not be unjustified. But round phrases cannot give square answers. Before accepting that meaning, we must see the consequences, anomalies and uncertainties that it may lead to. The Tribunal in fact does not dispute that the process of selection begins with the issuance of advertisement and ends with the preparation of select list for appointment. Indeed, it consists of various steps like inviting applications, scrutiny of applications, rejection of defective applications or elimination of ineligible candidates, conducting examinations, calling for appointment. Rule 3 of the Rules of Procedure of the Public Service Commission is also indicative of all these steps. When such are the different steps in the process of selection, the minimum or maximum age for suitability of a candidate for appointment cannot be allowed to depend upon and fluctuating or uncertain date. If the final stage of selection is delayed and more often it happens for various

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Order of the Division Bench delivered by
Hon'ble Shri A.B.Gorthi, Member (Admn.).

The grievance of the applicant is against the respondents' refusal to permit him to appear for the test and interview scheduled to be held on 11.3.1990 for selection for appointment as Supervisor (Technical) in the Ordnance Factory Project, Yeddu-mailaram. The applicant is a Diploma holder in Mechanical Engineering and qualified to the post of Supervisor (Technical) in the Mechanical Department of the Ordnance Factory, Yeddu-mailaram. The applicant registered his name with the District Employment Exchange. In response to a requisition made by the Ordnance Factory, the Employment Exchange Officer sent a list of candidates for selection to the post of Supervisor (Technical). The requisition by the Ordnance Factory was made vide memo dated 16.3.1989. The names of suitable candidates were sent by the Employment Exchange Officer vide his memo dated 26.6.1989. Thereafter, Ordnance Factory vide communication dated 22.2.1990 directed the applicant to appear for the test and interview on 11.3.1990 at 8.00 A.M. In compliance with the communication the applicant appeared ~~for~~ before the authorities concerned who, however, to the utter dismay of the applicant refused to allow him to appear for the test on the ground that he was overaged.

2. The respondents in their reply affidavit have not disputed the essential averments made in the application. They however clarified that in

July 1989, the respondents received SRO No. 13(E) dated 4.5.1989 whereby the upper age limit for the selection to the post of Supervisor (Technical) was brought down from 35 years to 25 years. As the ~~had~~ ¹ statutory rule had come into force before the respondents started the process of selection, they had applied the same. Accordingly the applicant would not have been called for the test/interview, but in the particulars submitted by the Employment Exchange Officer the date of birth of the applicant was shown as 1.1.1969. This as he was ~~found to be~~ ¹ within the age limit of 25 years, he was called for a test/interview. On the date of the test when the applicant appeared, ~~and~~ ² the documents furnished by him were scrutinised by the officials concerned, it was found that his correct date of birth was 1.1.1961 and not 1.1.1969 as was erroneously shown by the Employment Exchange Officer. In the light of this, the applicant having been found over aged, ~~penalty~~ ² the respondents denied him to appear for the test. However, in compliance with an interim order passed by this Tribunal he was allowed to appear for the test, but the result of the same is withheld.

3. We have heard Mr. P. Naveen Rao, Learned Counsel for the applicant at length. His main contention is that when the Ordnance Factory ~~had~~ ² ~~intimated~~ ² invited the vacancies to the Employment Exchange vide their memo dated 16.7.1989, the age limit laid down for selection to the post of Supervisor (Technical) was 18-35 years. The cut off date for receipt of the names was given as 25.3.1989. The plea of the applicant's counsel is that as the

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reasons, the candidates who are eligible on the date of application may find themselves eliminated at the final stage for no fault of theirs. The date ~~to~~ attain the minimum or maximum age must, therefore, be specific, and determinate as on a particular date for candidates to apply and for recruiting agency to scrutinise applications. It would be, therefore, unreasonable to construe the word selection only as the factum of preparation of the select list. Nothing so bad would have been intended by the Rule making authority."

4. In the instant case it is seen from the facts ~~stated~~ in the counter affidavit that the Ordinance Factory ~~did~~ not issue any public notification calling for applications from candidates for filling up the post of Supervisor (Technical). Only a demand was placed ^{on} ~~when~~ the concerned Employment Exchange Officer ~~was~~ for sponsoring the names of candidates. The District Employment Exchange Office sent the names of the candidates only in June 1989 (26.6.1989). It is apparent that on the date when the names are received by the Ordinance Factory the new amended rules have already been published vide SRO 13(E) dated 4.5.1989. The respondents therefore in compliance with the amended rules decided to select the candidates found suitable in accordance with the amended rules.

5. The short question that comes up for our consideration is ~~whether~~ ^{whether} the age limit of 35 years should apply ^{to} ~~to~~ the instant case or the amended age limit of 25 years would apply. There can be no

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To

1. The General Manager,
Govt. of India, Ministry of Defence,
Ordinance Factory Project, Yeddumailaram,
Medak Dist.
2. The District Employment Officer, Sangareddy,
Medak Dist.
3. One copy to Mr. P. Naveen Rao, Advocate, CAT. Hyd.
4. One copy to Mr. N. R. Devraj, Sr. CGSC. CAT. Hyd.
5. One copy to Mr. D. Panduranga Reddy, Spl. Counsel for A.P. Govt. CAT. Hyd.
6. One copy to Library, CAT. Hyd.
7. One copy to Deputy Registrar (J) CAT. Hyd.
8. Copy to All Reporters as per standard list of CAT. Hyd.
and Benches
9. One spare copy.

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doubt that the process of selection would commence from the date of issuance of advertisement or public notification calling for applications from eligible candidates. In the instant case however no such notification or advertisement has been made. Only the demand was placed on the concerned Employment Exchange Office. In these circumstances of the case we consider that the selection process in a case of this nature would commence from the date when the Ordinance Factory had asked the candidates to appear before them for test/interview. Admittedly, this was done in February 1990. As on that date it would be improper for the respondents to follow the old age limit which ^{was} superseeded with the publication of SRO 13(E) dated 4.5.1989. Applying the age limit laid down in SRO 13(E) dated 4.5.1989 the respondents would have declined to call the applicant to appear for the test/interview but ~~for~~ ^{called} the fact that there was an error committed by the Employment Exchange Office which furnished a wrong date of birth in respect of the applicant. It was on account of this, that the applicant happened to be ~~appear~~ ^{called} for the test/interview and it was not on account of the fact that the applicant was considered to be within the maximum age limit laid down for recruitment.

6. In view of what is stated above we find that the respondents acted correctly in applying SRO 13(E) dated 4.5.89 to the case of the applicant in the matter of his selection for the post of Supervisor (Technical). The application is therefore dismissed. There shall be no order as to costs.

T. Chandrasekhara Reddy
(T. CHANDRASEKHARA REDDY)
Member (Judl.)

A. B. Gorthi
(A. B. GORTHI)
Member (Adm.)

Dated: 3rd August, 1993
(Dictated in Open Court)

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8/9/93
Deputy Registrar

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTHY : MEMBER (A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER (JUDL)

AND

THE HON'BLE MR. P. T. MIRUVENGADAM : M (A)

Dated: 3-8-1993

ORDER/JUDGMENT:

M.A/R.A/C.A.N.

O.A. NO.

345/93

T.A. NO.

(W.P.)

in

Admitted and Interim directions
issued.

Allowed

Disposed of with directions ~~DISPATCH~~

Dismissed

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered

No order as to costs.

Central Administrative Tribunal

30 AUG 1993

HYDERABAD BENCH

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3-8-1993