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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.135 of 1991

DATE OF JUDGMENT: 28th September, 1993

BETWEEN:

Mr. B.Nagaiah .. Applicant

AND

The Chief Engineer (Project) FY,
Ministry of Defence,
Government of India,
Secunderabad-3. .. Respondent

HEARD:

COUNSEL FOR THE APPLICANT: Mr. Y.Suryanarayana, Advocate
represented by Mr. P.Naveen Rao.

COUNSEL FOR THE RESPONDENT: Mr. N.V.Ramana, Addl. CGSC
represented by Mr.V.Rajeswar Rao

CORAM:

HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN

HON'BLE SHRI P.T.THIRUVENGADAM, MEMBER (ADMN.)

JUDGMENT

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

The sole respondent issued a requisition to the District Employment Exchange, ~~Sangareddy~~ Medak District requesting to sponsor names for the posts of Peons in the Military Engineering Service under his jurisdiction. In the said requisition, the educational qualification ~~was~~ and ^{was} referred to as 8th Standard. In pursuance of the requisition, the names of a number of candidates including that of the applicant were sponsored. After the interview, 40 persons

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were empanelled and ranking of the applicant is 14. Two SC candidates, one ST candidate and 15 OC candidates from out of the panel were given orders of appointment and all the reserved candidates and 11 out of the 15 OC candidates joined service. The remaining four posts were kept unfilled according to the respondents.

2. When the applicant had not received the order of appointment, even though his rank is at No.14, this OA was filed praying for a direction to the respondent to appoint him to the post of Peon on the basis of his seniority in the panel that was prepared.

3. Two main contentions for the respondent for resisting this OA are:-

i) that the applicant was aged more than 25 years by the date the orders of appointment were issued and the request for the respondent for relaxation of the age of the applicant was rejected by the CE, Pune letter No.132505/A/BIB, dated 8.6.1989; and

ii) that no sanction was given for the remaining unfilled posts.

4. Article 51 of the Civilian Services and Regulations (C.S.R.) Volume-I, is relied upon to contend that one should not cross the age of 25 years by the date of the appointment and the relevant portion reads as under:-

"A person whose age exceeds twenty-five years may not ordinarily be admitted into the pensionable service of the State without sanction of the head of the department."

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5. It is not the case of the respondent that in the requisition, it is mentioned that one should not cross the maximum age limit by the date of the appointment. The candidate selected should not suffer for the mere delay in issuing the order of appointment, when such condition was not prescribed either in the notification or in the requisition issued to the Employment Exchange Officer. It is held by the Supreme Court in, (1993) 25 ATC 234 (Rekha Chaturvedi (Smt) Vs. University of Rajasthan and others) that if the date by which the condition in regard to the educational qualification has to be satisfied, age is not specified in the notification/requisition, it has to be satisfied by the last date of receipt of the application. We feel that it is equally applicable in regard to age. It is not the case of the respondent that the applicant crossed the age of 25 years i.e., the maximum age limit even by the date the list sent by the Employment Exchange was received. Hence, the respondent erred in not issuing the order of appointment when his rank is 14 and when 15 OC candidates were given the orders of appointment merely on the ground that the applicant was above 25 years of age as on that date. If it is necessary to order relaxation in view of Article 51 of CCR Vol.I so as to enable the applicant to have pensionable service, such relaxation has to be given; or else the said Article has to be read to the effect that the person whose age exceeds 25 years as on the last date of receipt of the application/the date of receipt of the list from the Employment Exchange, may not ordinarily be admitted into the pensionable service of the State without sanction of the head of the Department.

6. If the order of appointment was issued before the applicant crossed the age of 25 years, there would not have been any need to

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obtain the sanction of the concerned authority, for appointments were already given for 18. In fact, 4 out of those 18 remained vacant. So, the question of further sanction does not arise. As such, that is also not a ground for dismissing this OA.

7. In the result, the respondent is directed to appoint the applicant as Peon. Time for implementation is before 1st November, 1993, failing which the applicant is entitled to the salary and other allowances from 1.11.1993.

8. The OA is ordered accordingly. No costs.

I.A.28,
(P.T.THIRUVENGADAM)
MEMBER (ADMN.)

V.N.Rao
(V.NEELADRI RAO)
VICE CHAIRMAN

DATED: 28th September, 1993.

vsn

84/10/93
Dy. Registrar (Jusl.)

Copy to:-

1. The Chief Engineer (Project) FY, Ministry of Defence, Government of India, Secunderabad-3.
2. One copy to Sri. Y.Suryanarayana, advocate, CAT, Hyd.
3. One copy to Sri. N.V.Ramana, Addl. CGSC, CAT, Hyd.
4. One copy to Library, CAT, Hyd.
5. One copy to Library, CAT, Hyd.
6. One spare.

Rsm/-

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C.C.37
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O.A. 135/91

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COMPARED BY

CHECKED BY

W.M.G. 9/4/93

APPROVED BY

Records

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.GORTHI : MEMBER(A)

AND

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

AND

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

Dated: 28/9/1993

ORDER/JUDGMENT:

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

O.A. No.

in
135/91

T.A. No.

(W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered.

No order as to costs.

*Q.453
9/10/93*

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