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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH : AT HYDERABAD.

\* \* \*

O.A. 984/93

Dt. of Decision : 15.4.1994.

G. Ramaprasad

.. Applicant.

Vs

1. The Union of India, Rep. by its  
Secretary, Ministry of Finance  
Department of Revenue,  
Secretariat, New Delhi.
2. The Principal Collector of  
Central Excise, Hyderabad.
3. The Collector,  
Central Excise, Hyderabad.
4. The Deputy Collector (P&V)  
Central Excise, Hyderabad.

.. Respondents.

Counsel for the Applicant : Mr. B. Nalin Kumar

Counsel for the Respondents : Mr. N.V. Ramana, Addl. CGSC.

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

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J U D G M E N T

{ as per Hon'ble Sri Justice V.Neeladri Rao, Vice Chairman }

This OA was filed praying for a direction to the respondents to consider the case of the applicant for appointment as Inspector of Central Excise after setting aside the impugned order dt. C.No.II/39/27/92-E.5 dated 3.6.1993.

2. The <sup>facts</sup> ~~matters~~ which are not in controversy and which are material and relevant are that the applicant joined Indian Army Service as Electrician on 21.2.1963 and he was discharged from the Army on 5.2.1978 and in the same year he was employed as Sepoy in Central Excise department in the post reserved for Ex-Servicemen. The applicant was promoted as L.D.C. and later as UDC and he was also selected as Tax Assistant.

3. The avenue of promotion for Tax Assistant is the post of Inspector of Central Excise. As per recruitment rules an employee, who crossed the age of 45 years as on the relevant date, is not eligible for promotion to the post of Inspector of Central Excise. The applicant was informed by the impugned order that he has crossed 45 years by the relevant time and thereby he is not eligible for consideration for promotion as Inspector of Central Excise.

4. The learned counsel for the applicant submitted that as per O.M. dt. 2.4.1992 of Department of Personnel and Training, the applicant is entitled to the benefit of age relaxation as prescribed for Ex-Servicemen even in regard to the promotion. The only point that arises for consideration is as to whether the DOPT Memorandum dt. 2.4.1992 supports the above contention for the applicant.

5. The Office Memorandum No.36034/27/84-Estt.(SCT) dated 2.5.1985 states that the Ex-Serviceman joining civil employment in the vacancies reserved for Ex-serviceman, ~~he is~~ deemed to be a civil employee, and he will accordingly be entitled to only such of the benefits like relaxation of age as are applicable to civilian ~~employees~~. It is also made clear therein that the case of an Ex-serviceman who was engaged as civil employee in the quota for Ex-serviceman is not entitled to ~~either~~ age relaxation prescribed for ex-serviceman ~~or relaxation of age~~ if he seeks to apply for any other post in any other department of the Central Government. On the basis of the representations requesting the Government to re-consider the above decision, the DOPT O.M. dt. 2.4.1992 was issued. Para-2 therein is relevant and it is as under:-

"The matter has been examined in this department in consultation with the Ministry of Defence and the Department of Public Enterprises and it has been decided that such of these ex-serviceman candidates who have already secured employment under the Central Government in Groups C & D will be permitted to the benefit of age relaxation as prescribed for ex-servicemen for securing another employment in a higher grade or cadre in Group C/D under the Central Government. However, such candidates will not be eligible for the benefit of reservation for ex-servicemen in Central Govt. jobs." (emphasis supplied)."

It is urged for the applicant that another employment in higher grade or cadre referred to therein is also a ~~case~~ <sup>post</sup> of ~~consideration for promotional~~. But, it is stated for the respondents that the said para does not refer to the case of promotion.

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6. Whenever there is a quota for ex-servicemen in regard to direct recruitment, age relaxation is generally given for ex-servicemen. Such relaxation of age is by way of 3 to 5 years ~~for those who are~~ <sup>over and</sup> above the maximum age prescribed for the general ~~category~~ is referred to in the notification. What is stated as per DOPT O.M. dt. 2.4.1992, as per para-2 is that an ex-serviceman who is already employed in Group 'C' or 'D' in Central Govt. service is free to apply for any post in the Central Government by claiming the age relaxation prescribed for the ex-servicemen. But, it is stated that they are not eligible for consideration in the quota prescribed for the ex-servicemen. While as per O.M. dt. 2.5.1985 they ~~are~~ <sup>are not</sup> even entitled to the age relaxation prescribed for ex-servicemen. ~~that they are entitled to the age relaxation~~ prescribed for ex-serviceman, <sup>and</sup> they are not entitled ~~to~~ <sup>for</sup> consideration in the quota for ex-serviceman.

7. The question of age relaxation is prescribed for ex-serviceman only in regard to the direct recruitment and the same will be stated in the notification issued for filling up the posts under the notification. The learned counsel for the applicant had not drawn our attention to any recruitment rule, or O.M. or, a letter, or a circular prescribing the age relaxation for ex-serviceman for consideration for promotion of posts in any Central Government service. So, when para-2 of DOPT O.M. dt. 2.4.1992 states that ex-servicemen who are engaged in Group C & D in Central Government service under the quota prescribed for ex-serviceman are entitled to the benefit of age relaxation, ~~it~~ <sup>it</sup> means that they are entitled to the benefit if there is age relaxation for ex-serviceman. When such age relaxation for ex-serviceman is made only in regard to the direct recruitment in various services for Central Government, and when such age relaxation is not prescribed for ex-serviceman in regard to the promotion in any of the Central Government services, the question of

extending the benefit of age relaxation for ex-servicemen in regard to the promotion does not arise. Hence, it can be stated that para-2 of DOPT's O.M. dt. 2.4.1992 is applicable only in regard to age relaxation prescribed for ex-servicemen in regard to the direct recruitment in the Central Government service and it has no reference in regard to the promotion, <sup>as age</sup> ~~age~~ relaxation for ex-servicemen is not prescribed for promotion in any of the Central Government services.

8. For the above reason, it is not necessary to consider, <sup>to</sup> ~~to~~ dispose of this O.A., as to whether another employment referred to in para-2 of DOPT's O.M. dt. 2.4.1992 is in regard to employment in higher cadre or grade in the same service or in different service, and we leave it open for consideration as and when it arises.

9. As there is no provision whereby age relaxation is prescribed for ex-servicemen for consideration for promotion to the post of Inspector of Central Excise, the impugned order does not warrant any interference. Accordingly, the O.A. is dismissed. No costs.

( R.Rangarajan )  
Member(Admn.)

(V.Neeladri Rao )  
Vice Chairman

Dated 15th April, 1994.

DeputyRegistrar(J)CC

Grh.

To

1. The Secretary, Union of India, Ministry of Finance, Dept. of Revenue, Secretariat, New Delhi.
2. The Principal Collector of Central Excise, Hyderabad.
3. The Collector, Central Excise, Hyderabad.
4. The Deputy Collector (P&V) Central Excise, Hyderabad.
5. One copy to Mr. B. Nalin Kumar, Advocate, CAT. Hyd.
6. One copy to Mr. N. V. Ramana, Addl. CGSC. CAT. Hyd.
7. One copy to Library, CAT. Hyd.
8. One spare copy.

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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 (AD)

AND

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

AND

THE HON'BLE MR. R. RANGARAJAN : M (ADMN)

Dated: 15-6-1994

ORDER/JUDGMENT

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

in

O.A.No. 984/93

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.

