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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA.123/99

dt.30-3-2000

Between

M.V. Subba Reddy

: Applicant

and

1. Union of India, rep. by
The Director
Central Water Commission
Sewa Bhavan, Room No.204
Ramakrishna puram
New Delhi 66

2. Executive Engineer
Cauveri Division, CWC
Bangalore

3. Suptg. Engineer
●/● Chief Engineer (C&SR)
CWC, 10, RK Nagar
Singanaalur PO
Coimbatore 641005

4. Asstt. Engineer
Pennar Sub Divn., CWC
7/362-3, Bhagyanagar
Cuddapah 516002

: Respondents

Counsel for the applicant

: Siva, Advocate

Counsel for the respondents

: J.R. Gopal Rao, CGSC

Coram

Hon. Mr. R. Rangarajan, Member (Admn.)

Hon. Mr. B.S. Jai Parameshwar, Member (Judl.)





Order

Oral order (per Hon. Mr. R. Rangarajan, Member (Admn.))

Heard Mr. Siva for the applicant and Mr. J.R. Gopal Rao for the respondents.

1. The applicant herein was engaged as engaged as a Seasonal Khalasi under the Respondent No.4 for a period ranging from 2 to 6 months in a year. Some times it is stated that the seasonal workers are engaged for eight months in a year. It is stated that the applicant had worked six seasonal years from 1992 to 1997. The applicant and other workers were called for interview for filling up 151 posts of regular khalasis, sanctioned by the Central Water Commission for manning 30 ideological observation sites. It is stated that the applicant was called for interview as per order dated 2-5-1998 vide No.CD/6(3)/Admn.II/521-81 (Annex.A.6). But he was not selected on the ground of over-age, i.e. he ^{was} beyond 30 years of age for consideration of regular Khalasi in terms of Recruitment Rules.
2. The applicant was informed by the memo No.G&D Kml/WC-9/98 dated 30-11-1998 (Annex.A.1) that his services as Work charged seasonal Khalasi has been terminated from 30-11-98.
3. This OA is filed to set aside the impugned order dated 30-11-98. However, due to some objection the OA was amended praying for a declaration that the action of the respondents in withholding the results of the applicant in respect of the interview held on 14-5-1998 for being recruited as Work Charged Khalasi on a regular basis and for consequential benefits with effect from 23-11-1998, the date on which persons who have been interviewed along with the applicant have been appointed.

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4. The main point is whether the case of the applicant can be rejected on the ground of age. The employment Exchange was approached for sponsoring candidates for engagement of work charged Seasonal Khalasis by letter dated 28-4-1986 vide No.CGBD/D-3/86/WC-2/989-94 (Annex.8) wherein the age limit is from 18 to 34. The applicant was appointed presumably that he was less than 34 years of age on the day when his name was sponsored by the Employment Exchange. It may be possible that some age condition was stipulated for engagement of work charged seasonal Khalasis later also when the applicant was engaged in 1992. The respondents should check up the above point from the records and see whether at the time of engagement of the applicant as Seasonal Khalasi ^{any age requirement condition} was insisted upon by sponsorship by the Employment Exchange.

5. The case of the applicant was rejected ^{regular appointment as} for ^{even} he was over 30 years of age at the time of engagement as Seasonal Khalasi and the age limit prescribed for appointment on regular basis is between 18 and 30 years as per the Recruitment Rules framed on 22-4-1988.

6. The only point for consideration in this OA is whether the applicant is eligible for consideration even if he is over 30 years of age while at the time of appointment as Seasonal Khalasi.

7. In the normal course when a Casual labour is engaged, while regularising him the number of years of service put in by him as Casual labour should be added to the maximum age limit to consider such candidate for regularisation. In this case such an eventuality will ^{not} arise as the applicant was over aged even on the day when ^{he was} sponsored by the Employment Exchange. Hence, it is to be seen whether the over aged candidate ^{joined as regular Khalasi} after 30 years is eligible for consideration for a regular post.

8. When a Casual Labour is employed in the Department it gives hope to such Casual labour that he will be regularised in due course. The respondents should be careful to fix the age limit and other conditions required for engagement of Casual labour to ensure that the Casual labour will not be left out for consideration for appointment on regular basis as and when such need arises. In the present case the recruitment rule for Khalasi states that the age is between 18-30 years, issued way back on 22-4-1988. Hence, for engagements made after 22-4-1988 as seasonal Khalasi it is the responsibility of the respondents to ensure that such Seasonal Khalasis will not be left out for consideration for regular appointment. If they leave out some of the work charged Khalasis on consideration of age that will lead to complications and also the legitimate expectations of Seasonal Khalasis will be belied. If the respondents have given any slight indication to the applicant even at the time of his engagement as Seasonal Khalasi that he will not be considered as regular Khalasi in view of his over age the applicant cannot ask for age relaxation. But in this case it appears that no such guidelines were given to the applicant while he was engaged as work charged Seasonal Khalasi. Hence, the respondents have failed to engage the Seasonal Khalasis in accordance with the Recruitment Rules for appointment of Regular Khalasis. Hence, in that view rejecting the case of the applicant stating that he is over aged for consideration ~~for~~ ^{for} appointment as regular Khalasi is not in order. Further the age at the time of issue of notification either open or to Employment Exchange will have to be taken for consideration at the time of regularisation.


9. In the present case the applicant was engaged even though he was over 30 years on his engagement as work charged Seasonal

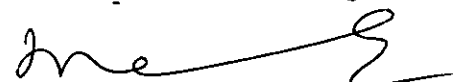
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Khalasi and that gave him the hope that he will be regularised in due course. Such a belief was belied by the respondents by not informing the relevant Recruitment Rule to the applicant at the time of his engagement as Seasonal Khalasi nor an undertaking was taken while engaging^{him} that he will not be regularised due to over age. Hence, the applicant having put in long service as Seasonal Work Charged Khalasi, his case cannot be rejected merely on account of age. His case has to be considered for regularisation against the post for which he was called for interview on 14-5-1998 and consider him for regularisation provided:

- i) He is less than 34 years of age on the date when the respondents approached the Employment Exchange for Sponsorship of candidates or at the time of issue of open notification.
- ii) Age relaxation has to be given to the applicant to the extent of number of years of service he had put in as Seasonal Khalasi even at the time of calling him for interview if he is above 34 years of age at the time of considering his case for regularisation.
- iii) The case of the applicant should be considered if he fulfils all the other conditions following the directions (i) and (ii) above.

10. With the above directions the OA is disposed of. No costs.


(B.S. Jai Parameshwar)
Member (Judl.)
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(R. Rangarajan)
Member (Admn.)

Dated : 30 March, 2000
Dictated in Open Court

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