

CENTRAL ADMINISTRATIVE TRIBUNAL  
JABALPUR BENCH

CIRCUIT SITTING AT INDORE

OA No. 422/04

Indore, this the 19<sup>th</sup> day of August, 2005.

CORAM

HON'BLE MR.M.P.SINGH, VICE CHAIRMAN  
HON'BLE MR.MADAN MOHAN, JUDICIAL MEMBER

Sunil Sada Shiv  
Son of Gopal Swamy  
R/o QM Branch Army War College  
C/o House No.3105, Mahu (MP)

Applicant.

(By advocate Shri D.M.Kulkarni)

Versus

1. Union of India through  
Secretary, Ministry of Defence  
New Delhi.
2. Commandant Army War College  
Mahu, Madhya Pradesh.

Respondents.

(By advocate Shri Umesh Gajenkush)

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant has claimed the following reliefs:

- (i) Quash the order dated 17.4.2004.
- (ii) Direct the respondents to consider the case of the applicant on the post of Tailor.
- (iii) Direct the respondents to relax the age of the applicant while considering his case for appointment to the post of Tailor.

2. The brief facts of the case are that the father of the applicant who while working as Senior Supervisor retired on medical ground. Thereafter he made a request for appointment of his son - the applicant herein - on compassionate ground. Accordingly the applicant was appointed on the post of Tailor on temporary basis and has been working since 10.4.99. While so, an advertisement was published for appointment on the post of Tailor and the applicant also applied for the same. The application of the applicant was returned on the ground of overage as he was 28 years while the age limit prescribed in the advertisement was

25 years. Hence he has filed this OA challenging the rejection of his application.

3. Heard learned counsel for both parties. It is argued on behalf of the applicant that the applicant was temporarily appointed on 10.4.99 and continuously working as such on the post of Tailor to the satisfaction of his superior officers and, therefore, the rejection of his application is bad in law and liable to be quashed. Since the applicant was appointed on compassionate ground, the action of the respondents is not not sustainable in the eyes of law and is arbitrary.

4. In reply, learned counsel for the respondents argued that the respondents have rightly rejected the claim of the applicant on the ground of over age. The contention of the applicant that he was appointed on temporary basis as Tailor is totally incorrect and baseless. He was engaged as a casual labour w.e.f. 10.4.99 as and when his services are required. The applicant was never issued any appointment letter by the respondents. He had also worked as Mali (Gardener) with respondent No.2 as can be seen from A6 of the OA. One vacancy of Tailor was released by the Army Headquarter in the month of January 2004, which was published in the local newspapers. The said post was to be filled up from the general category candidates for whom the age limit required was between 18 to 25 years as on 10.4.2004. The applicant had applied for the post in question. On scrutiny of the application, it was observed that the date of birth of the applicant was 1.12.1975 and accordingly as on 10.4.2004 he was 28 years 4 months and 9 days and thus he was found to be over age.

Moreover, the applicant was lacking the technical qualification i.e. ITI for cutting & stitching as per existing recruitment rules for the post of Tailor. Therefore, the application of the applicant was rejected by the respondents.

5. After hearing learned counsel for both parties and perusing the records, we find that the applicant has not controverted the fact mentioned in the reply filed on behalf of the respondents, particularly on the fact that he was never appointed as Tailor on temporary basis. He was only engaged as a casual labour w.e.f. 10.4.99 till date and as and when his services are required. He was also never issued any appointment letter by the respondents. The applicant has also worked as a Gardener. We have perused Annexure A6 by which the contention of the respondents seems to be correct. Admittedly the applicant had attained the age of 28 years 4 months and 9 days on 10.4.04 as his date of birth is 1.12.1975 whereas the age limited prescribed in the advertisement for the post of Tailor is 25 years.

6. Considering all facts and circumstances of the case, we are of the considered opinion that the respondents are to relax the age limit of the applicant by the number of years he served the department. Accordingly we direct the respondents to relax the age limit by the number of years he served the department and in case any vacancy arises in future, he may be considered in preference to freshers. The OA is disposed of as above.

(Madan Mohan)  
Judicial Member

(M.P. Singh)  
Vice Chairman

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पूरांकन से ओ/लगा.....जयलपुर, दि.....  
चलिलियि वाच्य मिल

(1) सचिव, उच्च न्यायालय जयलपुर

(2) आवेदन प्राप्त जयलपुर

(3) प्रत्यक्षी को/अ

(4) धर्मपाल, श्रीमान जयलपुर

सूचना एवं आवश्यक कार्यवाही हेतु

उप सचिव

Filed  
24.8.05

DM Klu Ram 02-120  
S. P. Singh  
24.8.05