

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 699 of 2003

Jabalpur, this the 14th day of October, 2003

Hon'ble Shri J.K. Kaushik, Judicial Member  
Hon'ble Shri Anand Kumar Bhatt, Administrative Member

Mahmood Hussain, Son Shri  
Mohd. Hasan, Aged about 34  
years, R/o Beejadandhi Tahsil-  
Niwas, Distt. Mandla (MP). .

... Applicant

(By Advocate - Shri Sanjay Dwivedi)

V e r s u s

1. Union of India,  
Through Secretary,  
Ministry of Railway,  
New Delhi.

2. Railway Recruitment Board,  
Through its Chairman,  
East Railway Colony,  
Bhopal (MP).

3. Railway Recruitment Board,  
Through its Secretary,  
East Railway Colony,  
Bhopal (MP).

... Respondents

O R D E R (Oral)

By J.K. Kaushik, Judicial Member -

Shri Mahmood Hussain has filed this Original Application challenging the impugned order dated 02.01.2003 (Annexure A-3) by which his candidature has been rejected on the ground of overage.

2. The brief facts of the case as per the applicant are that he applied in pursuance to the advertisement for the post of Probationary Assistant Station Master in the pay scale of Rs. 4500-7000/-. As per the advertisement the date of birth was required to be determined as on 01.07.2002 and in respect of the general candidates the maximum age limit of 33 years was provided. Incidentally the applicant's date of

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birth is 01.07.1969 and as per him he has completed 33 years of age on 01.07.2002. He has submitted number of representations to the respondents, but there has been no response.

3. The case was listed today for admission and we have heard the learned counsel for the applicant and have carefully perused the records.

4. The learned counsel for the applicant has empathetically submitted that this is a very hard case and by one day the applicant's complete future career is going to be damaged. <sup>view</sup> He has submitted that in such cases a/ has been given by the Hon'ble Supreme Court that the competent authority could be directed to give relaxation so as to mitigate the hardship in as much as one is debarred as overage ~~for~~ one day. He has also submitted that the date has been fixed without any basis. He has placed reliance in this connection on the judgment of the Hon'ble Supreme Court in *Prabhudayal Sharma versus State of Rajasthan and others* reported in AIR 1986 SC 1938 and has submitted that the case of the applicant may also be considered in the same lines of verdict of the Apex court. The further case as submitted by the learned counsel for the applicant is that the applicant has made number of representations, but no response has been given and the respondents are sleeping over the issue.

5. We have anxiously considered the submissions of the learned counsel for the applicant and find that the applicant is definitely age barred and there is no illegality or propriety in the impugned order passed by the respondents. Since as in the advertisement one should have 33 years of age maximum as on 01.07.2002, but the applicant has completed

33 years of age on 30th June, 2002 itself. As regards the representations once the decision has been taken by the competent authority, there is hardly any scope of representation. Further the applicant is an outsider, therefore there is no requirement of any appeal by the applicant. However, no illegality or wrong can be pointed in the impugned order.

6. As regards the judgment which is being relied upon by the learned counsel for the applicant, the Tribunal is governed by the rules and as per the rules the applicant is overage. On the other hand the Hon'ble Supreme Court has enormous powers under Article 142 of the Constitution for doing the substantial justice, but the Tribunal does not have any such powers. So the judgment which is relied upon by the learned counsel for the applicant is of no help. Even otherwise also, selection by now must have already been completed and the matter is likely to create un-necessary complications. However, we are not in any way impressed with the submissions of the learned counsel for the applicant.

7. In the premises the result is very unfortunate, but we are left with no choice, except to dismiss the Original Application at the admission stage itself.

*Anand Kumar Bhatt*  
(Anand Kumar Bhatt)  
Administrative Member

*JK Kaushik*  
(J.K. Kaushik)  
Judicial Member