

**THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR
ORDER SHEET**

APPLICATION NO.: _____

Applicant(s)

Respondent (s)

Advocate for Applicant (s)

Advocate for Respondent (s)

3

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

12.11.2008

OA No. 453/2008

Mr. B.B.L. Sharma, Counsel for applicant.

Learned counsel for the applicant submits that there is relaxation given by the Government in respect of the category to which applicant belongs in respect of appointment to be made by direct recruitment. For that purpose, applicant prays for adjournment.

Let the matter be listed on 17.11.2008.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ

17.11.2008

OA No. 453/2008

Mr. B.B. L. Sharma, Counsel for applicant.

Heard learned counsel for the applicant.

For the reasons dictated separately, the OA is disposed of.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 17th November, 2008

ORIGINAL APPLICATION NO. 453/2008

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER,
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Dr. Chaitanya Dev Mishra son of Late Shri Ram Bharosey Lal Mishra, aged about 46 years, resident of 76, Nandpuri, Malviya Nagar, Jaipur. At present working as Assistant Chemest Grade I at Geological Survey of India, Jhalana Doongari, Jaipur.

.....APPLICANT

(By Advocate: Mr. B.B. L. Sharma)

VERSUS

1. Union of India through its Secretary, Government of India, Ministry of Mines, Department of Mines, Shastri Bhawan, New Delhi.
2. The Secretary, Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi.
3. The Director General, Geological Survey of India, 27, J.L. Nehru Road, Kolkatta.
4. The Secretary, Department of Personnel & Training, North Block, Center Secretariat, New Delhi.
5. The Deputy Director General, Senior Administrative Officer, Geological Survey of India, 15-16, Jhalana Doongri Institutional Area, Jaipur.

.....RESPONDENTS

(By Advocate: -----)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

"It is, therefore, prayed that in view of the facts and grounds mentioned above, the Original Application may kindly be allowed and the respondents may be directed to allow the applicant to participate in the selection process for the post of

Chemist (Senior) in the respondent department in pursuance of the requisition sent by the department to the UPSC for 23 posts of Chemist (Sr.) up to the year 2003-2004 in the year 2005 when the applicant was within the age and advertisement issued by the UPSC in the year 2007 vide Ref. No. F.1/219/2005-R-II after giving age relaxation. The respondents may further be directed to allow the applicant to participate in the selection process for the above said post and if he is found eligible and entitled he may be appointed on the post of Chemist (Senior) in Geological Survey of India in pursuance of advertisement issued by the UPSC in the year 2007 vide Ref. No. F.1/219/2005-R-II."

2. Briefly stated facts of the case are that the respondents have issued a advertisement No. 15 for filling up of various posts including 23 posts of Chemist (Senior) by way of direct recruitment. The grievance of the applicant is that he being service candidate is entitled to age relaxation. When the matter was listed on 12.11.2008, the matter was adjourned on the request of the learned counsel for the applicant as it was submitted by him that there is relaxation given by the Government in respect of the category to which applicant belongs in respect of appointment to be made by direct recruitment. Today, learned counsel for the applicant has shown to us the advertisement issued by the UPSC. The post of the applicant find mentioned at sl. No. 11. As per the Advertisement, eligibility in respect of age limit has to be seen as on 30.08.2007 and in respect of the applicant's category, it is mentioned that a person should not exceed 40 years of age. There is note below Para No. 3 which says that "age is also relaxable for Central /UT Government employees upto five years as per the instructions issued by the Government of India from time to time." Learned counsel for the applicant submits that applicant is entitled to relaxation of age limit on the basis of this Note irrespective of the fact whether such instructions in respect of concession and relaxations have not been issued by the Government of India.

3. We have given due consideration to the submission made by the learned counsel for the applicant. We are of the view that the aforesaid Note is of general nature and has to be read alongwith Para 2 & 5 of the Advertisement appearing below the heading "Instruction and Additional Information to candidates for Recruitment by Selection."

Para 5 indicates the categories who are entitled to age relaxation. Admittedly in respect of posts of Chemists (Senior) against which post applicant wants his consideration, no age relaxation has been stipulated. Thus in the absence of any specific order for relaxation of age for the category of the applicant by way of direct recruitment, no relaxation in age can be given. At this stage, it will also be useful to quote policy decision taken by the Government of India as notified vide Government of India, D.P. & A.R. OM No. 4/4/74-Estt.(D) dated 09.04.1981 which stipulates that when direct recruitment in respect of Group 'A' & 'B' has to be made through UPSC, no age relaxation should be given unless schemes approved in consultation with the Commission provides for such relaxation in age. At this stage, it will be useful to quote Para 6(1) under Chapter 14, Age relaxation for appointment as contained in Swamy's Complete Mannual on Establishment and Administration, which thus reads as under:-

"Upper age relaxation admissible to Government Employees for direct recruitment to Groups 'A' and 'B' posts. - 1. The following decisions have been taken in consultation with the Union Public Service Commission:-

(i) Government servants may not be allowed any relaxation of age for recruitment to Group 'A' or Group 'B' posts on the basis of competitive examination held by the Commission, except in cases where it has been specifically provided for in the scheme of the examinations approved in consultation with the commission."

4. Thus in view of this specific policy decision taken by the Government of India and in the absence of any specific provision in the Advertisement regarding age relaxation in respect of the category of the applicant for appointment to the post of Chemist (Senior), we are of the view that applicant has not made out any case for our interference. Thus the present OA cannot be entertained. In any case, if there is any provision regarding age relaxation in respect of the category of the applicant which the applicant has failed to show, it is for him to bring this fact to the notice of the UPSC which will consider the matter in accordance with the instructions/decisions, if any.

5. With these observations, the OA is disposed of ^{at} ~~the~~ admission stage with no order as to costs.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ