

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

92

ORDERS OF THE BENCH

Date of Order: 28.08.2012

OA No. 192/2010

Mr. Rajvir Sharma, counsel for applicant.
Mr. V.S. Gurjar, counsel for respondents.

At the request of learned counsel for the applicant,
put up the matter on 11.09.2012 for hearing.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

K. S. Rathore
(JUSTICE K.S. RATHORE)
MEMBER (J)

Kumawat

11-09-2012

OA No. 192/2010

~~Mr. Rajvir~~
Mr. Rajvir Sharma, Counsel for applicant.
Ms. Shabina Bano, Pooey Counsel for
Mr. V.S. Gurjar, Counsel for respondents.

Heard.

O.A. is disposed of by a
Separate order on the separate
sheets for the reasons recorded
therein.

Anil Kumar
[Anil Kumar]
Member (A)

K. S. Rathore
[Justice K.S. Rathore]
Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 192/2010

DATE OF ORDER: 11.09.2012

CORAM

HON'BLE MR. JUSTICE K.S. RATHORE, JUDICIAL MEMBER
HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Radhey Shyam Suman S/o Shri Bajrang Lal Ji Mali, aged 34 years, by caste Mali, R/o Arya Samaj Road, Station Road, Bhimganj Mandi, Kota Junction, Kota, Rajasthan.

...Applicant

Mr. Rajvir Sharma, counsel for applicant.

VERSUS

1. Railway Recruitment Board Ajmer through its Chairman 2010 Nehru Marg, Near Ambedkar Circle, Ajmer, Rajasthan.
2. Union of India through its General Manager, West Central Railway, Jabalpur (M.P.).

... Respondents

Ms. Shabina Bano, proxy counsel for
Mr. V.S. Gurjar, counsel for respondents.

ORDER (ORAL)

Brief facts of the case, as stated by the applicant, are that the applicant belongs to OBC category and applied for the post of Telecommunication Maintainer-III in the pay scale of Rs. 3050-4590 and he submitted copy of OBC caste certificate and also mentioned his date of birth as 01.07.1975 as per certificate issued by the Board of Secondary Education Rajasthan, Ajmer, dated 23.07.1991 (Annexure A/4). Vide annexure A/1 letter dated 11.06.2009, the candidature of the applicant has been rejected even after selection for the post of Telecommunication Maintainer-III on the ground that he has overage i.e. his age is calculated 33



years and 01 days as on 01.07.2008, and therefore, he was denied appointment on the post of Telecommunication Maintainer-III.

2. Learned counsel appearing for the applicant submits that after excluding one day, the applicant was 33 years of age as on 01.07.2008 and as such was within the upper age limit. He further submits that the respondents vide annexure A/2 letter dated 27/29.07.2009, while rejecting the candidature of the applicant on the ground of being overage, alleges that the applicant was not having requisite qualification also, whereas the applicant is having requisite qualification. Therefore, the applicant has filed the present O.A. challenging the order dated 11.06.2009 (Annex. A/1) and order dated 27/29.07.2009 (Annex. A/2) praying for quashing and setting aside the same with further prayer that the respondents may be directed to give appointment to him on the post of Telecommunication Maintainer-II.

3. Learned counsel appearing for the respondents submits that the Railway Recruitment Board, Ajmer invited applications to fill up certain vacancies for different categories including for the post of Telecommunication Maintainer Grade-III and the age limit for OBC candidates was 18 to 33 years as on 01.07.2008, as the date of birth of the applicant is 01.07.1975, the applicant's age as on 01.07.2008 was 33 years and 01 day, as such, the applicant has crossed the upper age of 33 years as on 01.07.2008. Learned counsel appearing for the respondents further submits that the applicant was not possessing the requisite qualification for the said post i.e. Diploma in Electronics Instrumentation while the

14

applicant has technical qualification Diploma in Instrumentation Engineering, which is entirely different engineering than Diploma in Electronics Instrumentation Engineering.

4. The respondents further submits that it is not disputed that the applicant qualified the written test and he was called for document verification provisionally on 30.12.2008 and in the call letter it was specifically mentioned that merely issue of call letter does not confer any right in favour of the candidate for selection and appointment to the post and candidature may be rejected at any time, if it is found that candidate has suppressed any information and has given wrong declaration / submitting wrong information. On documents verification, it was detected that the applicant is not having requisite qualification and has also crossed the upper age limit by one day. Therefore, vide annexure A/1 letter dated 11.06.2009, the applicant was informed that as he was over age as on 01.07.2008 by 01 day, thus, he was not eligible and his candidature has been rejected.

5. Against letter dated 11.06.2009 (Annex. A/1), the applicant made representation dated 19.06.2009 and he has been given a detailed reply vide letter dated 27/29.07.2009 (Annex. A/1) informing the applicant that he has given wrong information in the application form regarding age as well as educational qualification and tried to get the employment in the Railway by giving such wrong information, which is not proper, thus, he has been declared ineligible for the post in question, which is fit and proper.



6. We have heard the learned counsel appearing for the respective parties and also carefully gone through the pleadings, reply, rejoinder as well as the documents available on record.

7. It is not disputed that the date of birth of the applicant is 01.07.1975 and the upper age limit for the OBC candidate as on 01.07.2008 was required 18 to 33 years for the post of Telecommunication Maintainer Grade-III, whereas as per calculation, the applicant was of 33 years and 01 day as on 01.07.2008, as such, the applicant has crossed the upper age limit.


8. Having considered the date of birth of the applicant as mentioned in the certificate issued by the Board of Secondary Education Rajasthan, Ajmer i.e. 01.07.1975, the applicant has overage by 01 day as on 01.07.2008 that comes 33 years and 01 day. Leaving aside the fact that 'whether the applicant was having requisite qualification or not', we are of the view that the respondents has rightly rejected the candidature of the applicant vide annexure A/1 letter dated 11.06.2009 on the ground that the applicant has crossed the upper age limit of 33 years, by 01 day as on 01.07.2008. Thus, in view of the fact that the applicant was overage by one day as on 01.07.2008, as discussed herein above, the applicant cannot claim for appointment / consideration of his candidature on the post of Telecommunication Maintainer-III.

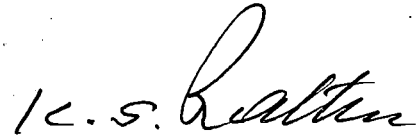
9. Further, we are of the view that the respondents have not committed any error in calculating the date of birth of the



applicant and as the applicant was overage by one day as on 01.07.2008, the respondents have rightly passed by order dated 11.06.2009 (Annexure A/1) by which the applicant has been declared ineligible for the post of Telecommunication Maintainer-III on the ground of overage. Therefore, in our considered view, we find no merit in the present Original Application, and the same deserves to be dismissed.

10. In view of the above observation, the present Original Application stands dismissed being devoid of merit. There shall be no order as to costs.


(ANIL KUMAR)
MEMBER (A)


(JUSTICE K.S. RATHORE)
MEMBER (J)

Kumawat