

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-2202/2015

Reserved on : 09.01.2017.

Pronounced on : 12.01.2017.

Hon'ble Mr. Shekhar Agarwal, Member (A)

Hon'ble Mr. Raj Vir Sharma, Member (J)

Ms. Priyanka Gupta,
Age : 25 years (approx.)
DOB : 01.01.1990,
D/o late Sh. Satyender Gupta,
R/o B-82, B-Block,
Shakarpur,
New Delhi-110092.

.... Applicant

(through Sh. R.N. Singh, Advocate)

Versus

Staff Selection Commission,
Block No.12, CGO Complex,
Lodhi Road, New Delhi-110003.
(Through: The Secretary)

.... Respondent

(through Sh. Gyanendra Singh, Advocate)

O R D E R

Mr. Shekhar Agarwal, Member (A)

The respondents issued a Notification on 28.03.2015 inviting applications for the post of Sub-Inspector in Delhi Police, CAPF and Asstt. Sub-Inspector in CISF. The age limit as mentioned in Clause-4(A) of the Notification was as follows:-

“Age limit for the post of Sub-Inspector in Delhi Police & CAPF and Assistant Sub-Inspector in CISF is 20-25 years.”

Further, it was mentioned in the Notification that the crucial date for age limit is reckoned with reference to 01.01.2015.

2. The applicant applied for the same and was initially issued an admit card as well. However, before the examination on 16.06.2016 she received the impugned communication by which she was informed that she was not eligible to appear in the exam as she was over age as on 01.01.2015. Aggrieved by this communication, the applicant represented on 17.06.2015 but when she did not get any response. She filed this O.A. in view of the urgency of the matter as the examination was scheduled to be held on 21.06.2015. By our order dated 19.06.2015 the applicant was allowed to appear in the aforesaid examination provisionally. However, it was directed that her result shall not be declared and would be kept in sealed cover.

She has sought the following relief in this O.A:-

- “(a) Call for the original file(s)/record(s) of the respondent dealing with the impugned communication.
- (b) Declare the Communication vide Email dated 16.6.2015 (Annexure-A-Impugned) whereby the respondent has held that the applicant is not eligible being over-aged as arbitrary, discriminatory, illegal and consequently quash the same.
- (c) Declare that the applicant is eligible for participating in the selection process for the post of S.I. in Delhi Police, CAPF and ASI in CISF Examination, 2015 notified by the respondent vide their Notification dated 28.3.2015 (Annexure-A-1) in view of her age of being 25 years as on 1.1.2015 with consequential benefits.

- (d) Award cost of this application and proceedings against the Respondents and favour of the Applicant.
- (e) May also pass further order(s) as be deemed just and proper to meet the ends of justice."

3. The contention of the applicant is that the impugned communication was cryptic, non-speaking and passed without application of mind. It was violative of Constitutional rights of the applicant. It was result of colourable exercise of power vested in the respondents and was unsustainable and it was against the principle of legitimate expectation of the applicant.

4. In their reply, the respondents have stated that the applicant's date of birth was 01.01.1990. As such, she had completed 25 years of age as on 31.12.2014 and on 01.01.2015 she had crossed the maximum prescribed age by one day. They have relied on the Majority Act, 1875 (wrongly mentioned in the reply as the Maturity Act). The respondents have also submitted that they rejected the candidature of the applicant as she was over age and that this O.A. deserves to be dismissed as it lacks merit.

5. We have heard both sides and have perused the material placed on record. Learned counsel for the applicant argued that by simple mathematics it can be concluded that the applicant was 25 years of age as on 01.01.2015. He has mentioned the following calculation in his rejoinder:-

" Cut of date	:	01.01.2015
Less:date of birth of applicant	:	01.01.1990

Age of applicant as on 01.01.2015 : 00.00.0025 years"

5.1 On the other hand, learned counsel for the respondents submitted that a person born on the first day of any month retires on the last day of the previous month. This is because on the 1st day of the next month he/she has crossed the age of superannuation and is older by one day.

5.2 Learned counsel for the respondents has also relied on Section-3 of the Majority Act, 1875, which reads as follows:-

“(1) Every person domiciled in India shall attain the age of majority on his completing the age of eighteen years and not before.

(2) In computing the age of any person, the day on which he was born is to be included as a whole day and he shall be deemed to have attained majority at the beginning of the eighteenth anniversary of that day.”

He has also relied on certain illustrations mentioned below the Majority Act, 1875 as extracted from Wikipedia. The aforesaid illustrations are as follows:-

“(a)Z is born in India on the first day of January 1850, and has an Indian domicile. A guardian of his person is appointed by a Court of Justice. A attains majority at the first moment of the first day of January 1871. (b)Z is born in India on the twenty-ninth day of February 1852, and has an Indian domicile. A guardian of his property is appointed by a Court of Justice. Z attains majority at the first moment of the twenty-eighth day of February 1973. (c)Z is born on the first day of January 1850. He acquires a domicile in India. No guardian is appointed of his person or property of any Court of Justice, nor is he under the jurisdiction of any Court of Wards. Z attains majority at the first moment of the first day of January 1868.”

6. We have given thoughtful consideration to the arguments of both sides, in particular, Section-3 of the Majority Act extracted above. Two points are noteworthy. The first is that the date on which a person is born is included and counted as a whole day while determining the age of the person. The second point is that a person would be deemed to have attained majority at the beginning of the 18th anniversary of that day. Thus, a person born on 01.01.1950 would attain majority on 01.01.1968. Read in conjunction with Section-3(1) of the Act it would mean that on this day such a person has completed 18 years and has entered in the 19th year. Otherwise, in terms of Section-3(1) he would not have been deemed to have majority. Applying the aforesaid illustration to the instant case, it would follow that the applicant, who was born on 01.01.1990, had completed 25 years of age on 31.12.2014 and had entered into her 26th year as on 01.01.2015. Thus, the respondents have rightly held that she was over age.

7. In view of the above, we find no merit in this O.A. and dismiss the same. No costs.

(Raj Vir Sharma)
Member (J)

(Shekhar Agarwal)
Member (A)

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