

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

**OA-3930/2014
MA-3409/2014**

New Delhi this the 10th day of August, 2016.

**Hon'ble Mr. Shekhar Agarwal, Member (A)
Hon'ble Mr. Raj Vir Sharma, Member (J)**

1. Sh. Braham Singh,
S/o Sh. Dhan Pal Singh,
R/o H.No. 196, Near Badi Chaupal,
Village Badarpur, Delhi-110044.

2. Sh. Mahender Singh,
S/o (Late) Sh. Sohan Lal,
R/o H.No. 6G/3 Village-Shahpur Jat,
Delhi-110040. Applicants

(through Sh. U. Srivastava, Advocate)

Versus

1. Union of India through
Secretary,
Ministry of Health & Family Welfare,
Nirman Bhawan, New Delhi.

2. The Medical Superintendent,
Dr. Ram Manohar Lohia Hospital,
Govt. of India, New Delhi. Respondents

(through Sh. Rajinder Nischal, Advocate)

O R D E R (ORAL)

Mr. Shekhar Agarwal, Member (A)

Applicants were working against Group-D posts of Bearer with the respondents. After permission from department, they registered

themselves with the Employment Exchange for appointment on higher posts. It is their submission that during the period of service they were duly trained for handling the ECG work. On 27.05.2013, the respondents invited applications for the post of Junior ECG Technician Group-C. The candidature of the applicants was, however, rejected on the ground that they were over age. They have then approached this Tribunal by filing the instant O.A. Vide order dated 12.11.2014, the applicants were allowed to appear in the examination provisionally subject to the condition that their result shall be kept in a sealed cover and shall not be opened without leave of the Court.

2. Learned counsel for the applicants has contended that the respondents have erred in not granting age relaxation to the applicants as they were Group-D employees of the same department and were entitled to relaxation for the entire period of service rendered by them under the Government of India. In this regard, the applicants have relied on Rule-ix (page-67 of the paper-book) of age relaxation for appointments, which reads as follows:-

Category of Persons to whom Age concession is admissible	Categories of Posts to which the Age concession is admissible	Extent of Age concessions
Group 'D'employees, registered with the Employment	For appointment to Group 'C' posts filled through Employment	Period of service rendered under the Government of India.

Exchanges appointment Group 'C' posts.	for to Exchange.	
--	------------------------	--

3. In their reply, the respondents have submitted that the age limit for direct recruitment to the aforesaid post was 20-25 years. It was relaxable for departmental candidates who had completed three years of regular service upto the age of 40 years for UR candidates and 45 years for SC candidates as per DoP&T Instructions. In this regard, they have extracted the O.M. No. 15012/2/2010-Estt.(D) dated 27.03.2012 on the subject of consolidated orders on relaxation in upper age limit allowed to various categories of government servants. Serial No. 12 of the aforesaid Instructions reads as follows:-

S.No.	Category of Persons to whom age concession is admissible and O.M./Notification No.	Categories of posts to which the age concession is admissible	Extent of Age Concession
12.	Departmental Candidates with three years continuous service in Central Government <u>O.M. No. 15012/1/88-Estt.(D) dated 30.01.1980</u> <u>O.M. No. 15012/1/88-Estt.(D) dated 20.05.1988</u>	For appointment to Group 'C' and erstwhile 'D' (now MTS posts) by direct recruitment which are in the same line or allied cadres.	Up to 40 years of age (45 years for SC/ST)"

4. Learned counsel for the respondents submitted that as per the service record of applicant No.1 Sh. Braham Singh he was 46 years of age on the relevant date whereas the applicant No.2 Sh. Mahender Singh he was 47 years of age. Thus, they were not eligible for consideration.

5. We have heard both sides and have perused the material placed on record. In our opinion, the respondents have erred by not applying the DoP&T Instructions that were specifically relevant to the instant case. The applicants herein were registered with Employment Exchange for appointment to higher post (Group-C in their case) and were, therefore, entitled to age relaxation for the entire period of service rendered by them under Government of India as per the Instructions relied upon by the applicant. They chose to rely on Instructions, which were relevant to all Government servants applying for appointment to Group-C posts and not those Instructions relevant for Government servants, who were registered with Employment Exchange.

6. We, therefore, allow this O.A. and direct the respondents to grant the necessary age relaxation to the applicants for appearing in the selection for the post of Junior ECG Technician. They are further directed to open the sealed cover of the written examination and in case the applicants are successful, process their candidature

further. This exercise shall be completed within a period 08 weeks from the date of receipt of a certified copy of this order. No costs.

(Raj Vir Sharma)
Member (J)

(Shekhar Agarwal)
Member (A)

/Vinita/