

**Central Administrative Tribunal
Principal Bench**

OA No.4326/2013

New Delhi, this the 1st day of November, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Dr. Mahtab Alam Khan, 36-1/2 years
S/o Mr. Shabbir Hasan Khan
R/o c-52/2, IV Floor
Shaheen Bagh, Okhla
New Delhi-110029. ...Applicant

(By Advocate: Shri M. Rais Farooqui)

Versus

Union of India & Ors. through

1. Secretary, Department of Ayush
Ministry of Health & F.W
Nirman Bhavan
New Delhi-110011.
2. Secretary, Union Public Service Commission
Dholpur House, Shahjahan Road
New Delhi-110069.
3. Director General
Council of Scientific & Industrial Research
Rafi Marg, New Delhi. ...Respondents

(By Advocates: Shri Hanu Bhaskar and Shri R.V. Sinha
with Shri Amit Singh and Shri Vaibhav Pratap Singh)

ORDER (ORAL)

Justice L. Narasimha Reddy:-

The UPSC issued advertisement No.11/2012
inviting applications for the post of Medical
Officer/Research Officer (Unani) in the Department of

Ayush. The applicant has also responded. On processing of the application, the UPSC recommended his case. The Ministry of Health and Family Welfare, the concerned department issued an offer of appointment dated 21.10.2013. The applicant was required to submit various certificates mentioned therein. The age limit stipulated for the post was 35 years. However, the applicant exceeded that limit. He filed the certificates of employment through which he was appointed in the Central Commission of Unani Research. The appointing department seems to have forwarded the application of the applicant to the UPSC for verification. On consideration of the same, the UPSC addressed a letter dated 14.11.2013 stating that the working of the applicant on contractual basis does not enure to his benefit since it cannot be treated as Government service. Accordingly, the letter of offer of appointment was withdrawn. The same is challenged in this OA.

2. We heard Shri M. Rais Farooqui, learned counsel for the applicant and Shri Hanu Bhaskar and Shri R.V. Sinha, learned counsel for the respondents.

3. It is not in dispute that the applicant was over aged by the time he submitted application in response

to the notification. He claimed the benefit of relaxation. Such benefit, however, is available only in respect of persons who are in permanent employment in any Government department. Admittedly, the applicant was holding the post on contractual basis. The orders passed by the Government from time to time in this behalf are clear in their purport. The relaxation is available only to the extent of the service rendered by an employee in a Government department on regular basis. In fact, a stipulation is contained in the Notification itself. It is in respect of "Central Government Servants", that too on the same lines.

Relevant paragraph reads as under:-

"(c) Age relaxation for Central Government employees:

The upper age limit is relaxable for Central/U.T. Govt. Servants up to 5 years as per instructions issued by the Govt. of India from time to time, (10 years for persons belonging to Scheduled Castes/Scheduled Tribes and 8 years for persons belonging to other Backward Classes in respect of the posts reserved for them) in accordance with the instructions or orders issued by the Government of India. A candidate claiming to belong to the category of Central Government servant and thus seeking age relaxation under this para would be required to produce a Certificate in the prescribed proforma issued after the date of advertisement from his/her Employer on the Office letter head to the effect that he/she is a regularly appointed Central Government Servant and not on

casual/adhoc/daily wages/hourly paid/contract basis employee.

The age relaxation will be admissible to both of the Government servants as are working in posts which are in the same line or allied cadres and where a relationship could be established that the service already rendered in a particular post will be useful for the efficient discharge of the duties of the post(s) recruitment to which has been advertised. Decision in this regard will rest with the Commission."

4. Admittedly, the applicant did not hold any post in the Central Government, and his engagement on contractual basis does not entitle him to claim the benefit of relaxation.

5. The OA is accordingly dismissed. There shall be no order as to costs.

(Aradhana Johri)
Member(A)

(Justice L. Narasimha Reddy)
Chairman

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