

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

...

OA NO.290/00308/2016

THIS, THE 11TH DAY OF JANUARY, 2018.

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CORAM:

**HON'BLE MR. R. RAMANUJAM, MEMBER (A)
HON'BLE MR. SURESH KUMAR MONGA, MEMBER (J)**

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ASHIK KUMAR SON OF VIJAY SINGH, AGED ABOUT 26 YEARS, R/O VILL-NARAYANPUR, PANCHAYAT- PANCHRUKHI, WARD NO.16, PO-PEDIBHEETAL, DISTRICT SAARAN (BIHAR).

...APPLICANT

BY ADVOCATE : MR. J.K. MISHRA

VERSUS

- 1. UNION OF INDIA THROUGH SECRETARY TO THE GOVERNMENT OF INDIA, MINISTRY OF DEFENCE, RAKSHA BHAWAN, NEW DELHI.**
- 2. AIR OFFICER COMMANDING-IN-CHIEF, SOUTH WESTERN AIR COMMAND, INDIAN AIR FORCE, SECTOR-09 GANDHINAGAR (GUJARA)-382009.**
- 3. CHIEF ADMINISTRATIVE OFFICER, AIR FORCE STATION RATANADA, JODHPUR (RAJ)-342011.**
- 4. SHRI MUSTAQ AHMED BHAT, TELEPHONE OPERATOR, NO.32 WING, AIR FORCE C/O 56 APO.**

RESPONDENTS

**BY ADVOCATE: MR. K.S. YADAV, FOR RESPONDENTS NO.1 TO 3.
MS. MONIKA TAK, FOR RESPONDENT NO.4.**

ORDER (ORAL)

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PER HON'BLE MR. R. RAMANUJAM, MEMBER (A):-

HEARD. LEARNED COUNSEL FOR THE APPLICANT SUBMITS THAT APPLICANT WAS ENTITLED TO BE SELECTED AT SERIAL NO.2 FOR ONE OF THE TWO UNRESERVED POSTS OF TELEPHONE OPERATOR GRADE II ADVERTISED IN EMPLOYMENT NEWS 4-10 APRIL 2015. HOWEVER, THE RESPONDENTS, BASED ON ANNEXURE-A/1 RECOMMENDATIONS APPOINTED ONE MUSTAQ AHMED BHAT (PRIVATE RESPONDENT NO.4) AT SERIAL NO.2

TO THE UR VACANCY. THE SAID MUSTAQ AHMED BHAT WAS OVER 27 YEARS OF AGE AGAINST THE MAXIMUM OF 25 YEARS PRESCRIBED FOR THE POSTS.

2. IT IS SUBMITTED THAT THE RESPONDENTS INVOKED THE AGE RELAXATION OF 5 YEARS AVAILABLE TO THE RESIDENTS OF JAMMU & KASHMIR AS PER ANNEXURE-A/6 DOPT OM DATED 27.03.2012. THE SAID OM PROVIDES FOR RELAXATION OF UPPER AGE LIMIT BY 5 YEARS SUBJECT TO THE MAXIMUM NUMBER OF CHANCES PERMISSIBLE UNDER THE RELEVANT RULES FOR RECRUITMENT TO ALL CENTRAL SERVICES AND POSTS MADE THROUGH UPSC OR SSC OR OTHERWISE BY CENTRAL GOVERNMENT TILL 31.12.2013. IT IS SUBMITTED THAT ADVERTISEMENT FOR THE POST OF TELEPHONE OPERATOR GRADE-II HAVING BEEN ISSUED IN THE YEAR 2015, THE RELAXATION IN UPPER AGE LIMIT WAS NO LONGER AVAILABLE. THEREFORE, THE APPLICANT OUGHT TO HAVE BEEN APPOINTED IN PLACE OF THE SAID MUSTAQ AHMED BHAT BEING THE ONLY STANDBY CANDIDATE IN GENERAL CATEGORY AS PER ANNEXURE-A/1 LIST.

3. COUNSEL FOR THE RESPONDENTS NO.1 TO 3 SUBMITS THAT THE SAID MUSTAQ AHMED BHAT WAS GRANTED AGE RELAXATION IN TERMS OF ANNEXURE-R/1 GOVERNMENT OF JAMMU & KASHMIR G.O. ISSUED IN PURSUANCE OF THE RULES PUBLISHED ON 28.06.1995 IN REGARD TO THE RESIDENTS OF JAMMU AND KASHMIR DIVISION IN THE STATE OF JAMMU & KASHMIR AS ALSO ANNEXURE-R/2 CERTIFICATE ISSUED BY THE DISTRICT MAGISTRATE BUDGAM DATED 12.07.2014 IN REGARD TO PRIVATE RESPONDENT NO.4. THE CERTIFICATE ISSUED BY GOVERNMENT OF JAMMU & KASHMIR WITH REGARD TO THE RESPONDENTS NO.4'S FATHER SHOWING HIM AS A PERMANENT RESIDENT OF JAMMU & KASHMIR STATE AS DEFINED IN SECTION 6 OF THE JAMMU & KASHMIR CONSTITUTION AS FILED BY RESPONDENT NO.4 IS ALSO REFERRED TO. IT IS SUBMITTED THAT WHILE AGE RELAXATION WAS NOT PERMISSIBLE FOR A RESERVED CANDIDATE TO BE APPOINTED AGAINST A UR VACANCY, THIS RESTRICTION WOULD NOT APPLY TO AGE RELAXATION PROVIDED IN GENERAL FOR RESIDENTS OF JAMMU & KASHMIR. IT IS ACCORDINGLY ARGUED THAT NO IRREGULARITY HAD BEEN COMMITTED BY THE AUTHORITIES AND THE APPLICANT'S CLAIM FOR SELECTION AT SERIAL NO.2 IS MISCONCEIVED.

4. COUNSEL FOR PRIVATE RESPONDENT NO.4 WOULD SUBMIT THAT THE FOURTH RESPONDENT HAD FILED THE RELEVANT CERTIFICATE IN SUPPORT OF HIS CLAIM OF A PERMANENT RESIDENT OF JAMMU & KASHMIR AND ACCORDINGLY HE WAS ENTITLED TO AGE RELAXATION. THEREFORE, HIS APPOINTMENT TO THE SAID POST WAS FULLY IN CONFORMITY WITH THE RELEVANT RULES.

5. WE HAVE CAREFULLY CONSIDERED THE SUBMISSIONS. IT IS NOT IN DISPUTE THAT THE FOURTH RESPONDENT HAD BEEN APPOINTED IN RELAXATION OF THE UPPER AGE LIMIT. IT WOULD APPEAR FROM THE OM DATED 27.03.2012 OF THE DOPT THAT FOR PERSONS WHO WERE

ORDINARILY DOMICILED IN THE STATE OF JAMMU AND KASHMIR DURING THE PERIOD FROM 01.01.1980 TO 31.12.1989, RELAXATION OF UPPER AGE LIMIT BY FIVE YEARS WAS AVAILABLE UPTO 31.12.2013. COUNSEL FOR THE RESPONDENTS IS UNABLE TO CLARIFY WHETHER THIS DATE WAS EXTENDED FOR A FURTHER PERIOD COVERING THE DATE OF ISSUE OF ADVERTISEMENT AND THE DATE OF APPOINTMENT OF THE FOURTH RESPONDENT. AS THE MATTER HAS TO BE DECIDED ONLY IN TERMS OF WHETHER THE AGE RELAXATION GRANTED WAS LEGITIMATE OR OTHERWISE, WE WOULD LIKE TO DISPOSE OF THIS OA WITH A DIRECTION TO THE RESPONDENTS TO ASCERTAIN FROM THE DOPT WHETHER THE DATE WAS EXTENDED BEYOND 31.12.2013. IN THE EVENT OF SUCH EXTENSION, THE APPOINTMENT OF THE FOURTH RESPONDENT SHALL BE REGARDED AS VALID. OTHERWISE, THE CLAIM OF THE APPLICANT FOR APPOINTMENT AT SERIAL NO.2 WOULD BE UNASSAILABLE. THE RESPONDENTS SHALL PASS A SPEAKING ORDER IN THIS REGARD WITHIN A PERIOD OF TWO MONTHS FROM THE DATE OF RECEIPT OF A COPY OF THIS ORDER. THE APPLICANT SHALL BE INFORMED OF THE OUTCOME ALONG WITH A COPY OF THE SPEAKING ORDER.

6. OA IS DISPOSED OF IN THE ABOVE TERMS. NO COSTS.

(SURESH KUMAR MONGA)
MEMBER (J)

(R. RAMANUJAM)
MEMBER (A)

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