

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 434/2003

New Delhi this the 9th day of September, 2003. (2)

HON'BLE MR. V.K. MAJOTRA, MEMBER (ADMNV)  
HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

Shri Pramod Singh,  
S/o Sh. Mahilal Singh,  
R/o B-3/210, Nand Nagri,  
Delhi-110093.

-Applicant

(By Advocate Shri Surinder Singh)

-Versus-

Union of India through  
the Director General,  
C.P.W.D., Nirman Bhawan,  
New Delhi.

-Respondents

(By Advocate Shri Mohar Singh)

ORDER (ORAL)

By Mr. Shanker Raju, Member (J):

Applicant, through this OA seeks age relaxation on account of having rendered one year apprentice training. Applicant a reserved category candidate passed diploma course in Civil Engineering and had undergone apprentice training from 12.9.1994 to 11.9.1995 in Construction Division No.11 for CPWD.

2. Respondents advertised 403 posts of JE (Civil), out of which 151 posts were reserved for SC. Applicant applied under the category of SC. He has drawn specific attention of CPWD as to eligibility for age relaxation to the extent of one year apprentice training undergone by him.

3. He was not called for written test as relaxation was not accorded, giving rise to the present OA.

4. Placing reliance on a decision of the Apex

Court in U.P. State Road Transport Corporation and Ors. v. U.P. Parivahan Nigam Shishukhs Sangh & Ors., (1995) 2 SCC 1, it is contended that even if the recruitment rules are silent on relaxation the same has to be accorded to the extent of period of apprentice training. According to Sh. Surinder Singh, learned counsel appearing for applicant, the same is a direction in rem and has been passed in view of the Apprentice Act, 1961 and is uniformly applicable to all the Ministries and Departments of the Government of India.

5. Further placing reliance on the decision of the High Court in CWP No.723/97 Shri Jay Narayan Sharma v. Union of India & Ors., decided on 11.4.2002 it is contended that the Flood Control being department of Delhi Administration the decision of the Apex Court has been made applicable.

6. On the other hand, respondents' counsel vehemently opposed the OA and stated that the upper age was relaxable upto 5 years for SC/ST categories who were borne between 13.8.1970 to 12.8.1984. As the date of birth of applicant in 10.8.1970, the respondents did not consider him for written examination held on 27.10.2002 due to age barred as prescribed for the SC candidate, i.e., between 13.8.1970 to 12.8.1984 in the advertisement.

7. Referring to the recruitment rules, i.e., Central Public Works Department (Subordinate Offices) Junior Engineers Grade-I and Grade-II (Civil and Electrical) Recruitment Rules, 1987 it is contended that

(3)

9

the direct recruitment is 95% and there is no provision of age relaxation in the recruitment rules to those who have completed the apprentice training.

8. It is contended that the decision of the Apex Court is not applicable to CPWD in absence of any provision of relaxation in the recruitment rules.

9. We have carefully considered the rival contentions of the parties and perused the material on record. The Apex Court in U.P. State Road Transport Corporation's case (*supra*) laid down as under:

"12. In the background of what has been done above, we state that the following would be kept in mind while dealing with the claim of trainees to get employment after successful completion of their training:

- (1) Other things being equal, a trained apprentice should be given preference over direct recruits.
- (2) For this, a trainee would not be required to get his name sponsored by any employment exchange. The decision of this Court in *Union of India v. N. Hargopal* (1987) 3 SCC 308 would permit this.
- (3) If age bar would come in the way of the trainee, the same would be relaxed in accordance with what is stated in this regard, if any, in the service rule concerned. If the service rule be silent on this aspect, relaxation to the extent of the period for which the apprentice had undergone training would be given.
- (4) The training institute concerned would maintain a list of the persons trained yearwise. The persons trained earlier would be treated as senior to the persons trained later. In between the trained apprentices, preference shall be given to those who are senior."

(10)

10. If one has regard to the above even if the rules are silent on the aspect of relaxation in upper age limit the same is to be accorded to the extent the apprentice had undergone training. The aforesaid observation has been made in the light of Apprentice Act and claim of trainees to get employment after successful completion of the training. The aforesaid cannot be restricted to U.P.S.R.T.C's case (supra). The ratio decidendi has an effect in rem irrespective of Department or Ministry of the Government the same would have uniform application. Accordingly, the same has been considered by the High Court of Delhi in Jay Narayan Sharma's case (supra). As applicant, despite bringing to the notice of respondents the provisions of age relaxation to the extent of period of training undergone as an apprentice on the basis of the decision of the Apex Court (supra), non-consideration of the same by respondents on the ground that recruitment rules do not provide for any relaxation and on non-applicability of the decision of the Apex Court in CPWD is unfounded and is not in accordance with law.

11. The directions issued by the Apex Court are binding and are to be kept in mind while considering on direct recruit an apprentice for appointment to the post under the Government of India. The training rendered cannot be ignored. In our considered view the age relaxation to applicant to the extent of his having undergone one year apprentice training under the Apprentice Act, 1961 for the period 12.9.1994 to 11.9.1995 was mandated. Having failed to consider the same the action of the respondents is not sustainable.

(11)

12. In the result, for the foregoing reasons, OA is allowed. Respondents are directed to accord to applicant the age relaxation as described above and to call him for written test for further consideration to appointment within a period of three months from the date of receipt of a copy of this order. No costs.

*S. Raju*  
(Shanker Raju)  
Member (J)

*V.K. Majotra*  
(V.K. Majotra)  
Member (A)

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