

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
KOLKATA BENCH, KOLKATA**

**APPLICATION UNDER SECTION 19 OF THE  
ADMINISTRATIVE TRIBUNALS ACT, 1985**

**Title of the Case:**

**O.A. No.350/00 1632 of 2018**

**JOYDEB SINGH**, son of Late  
Sudarshan Singh, aged about 29  
years, by occupation Staff Car Driver,  
Central Administrative Tribunal,  
Kolkata Bench, Kolkata, residing at  
113/1, Chandar Village Road, District  
South 24-Parganas, Kolkata-700082.

**... APPLICANT**

**-Versus-**

1. **UNION OF INDIA** service through  
the Secretary, Department of  
Personnel & Training, North Block,  
Central Secretariat, New Delhi-  
110001.

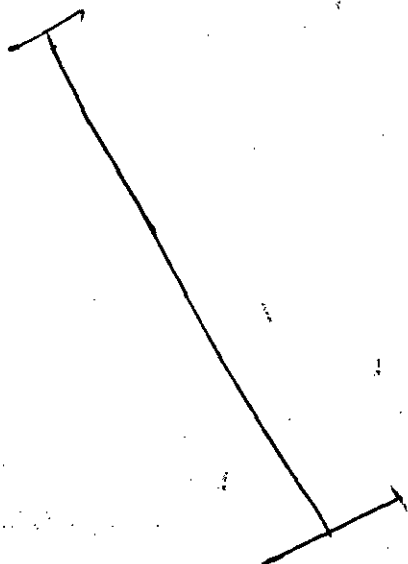
2. **PRINCIPAL REGISTRAR**, Central  
Administrative Tribunal, Principal

Bench, 61/35, Copernicus Marg, New  
Delhi-110001.

3. **REGISTRAR,** Central  
Administrative Tribunal, Kolkata  
Bench, Kolkata, 234/1, A.J.C. Bose  
Road, Nizam Palace, 11/12/13<sup>th</sup> Floor,  
2<sup>nd</sup> MSO Building, Kolkata-700020.

4. **JOINT REGISTRAR,** Central  
Administrative Tribunal, Kolkata  
Bench, Kolkata, 234/1, A.J.C. Bose  
Road, Nizam Palace, 11/12/13<sup>th</sup> Floor,  
2<sup>nd</sup> MSO Building, Kolkata-700020.

... **RESPONDENTS**



CENTRAL ADMINISTRATIVE TRIBUNAL  
KOLKATA BENCH

O.A/350/1632/2018

Heard on : 25.09.2019  
Date of Order: 20.11.2019

Coram: Hon'ble Ms. Manjula Das, Judicial Member  
Hon'ble Mr. N. Neihisial, Administrative Member

Joydeb Singh

---Applicant

Versus

Union of India & Ors.

---Respondents

For the Applicant (s): Mr. S.K. Datta, Mr. B. Chatterjee, Counsel

For the Respondent(s): Mr. P.N. Sharma, Counsel

ORDER

Per: Mrs. Manjula Das, Judicial Member:

Heard Mr. S.K. Datta, Ld. Counsel, leading Mr. B. Chatterjee, Ld. Counsel for the applicant, and Mr. P.N. Sharma, Ld. Counsel appearing for the respondents.

2. The applicant has moved this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

"a) An order quashing and/or setting aside the selection/appointment, if any, made on the basis of vacancy circular for filling of the post of Staff Car Driver (Ordinary Grade) without considering the applicant.

b) An order directing the respondents to consider the applicant by holding the selection for the post of Staff Car Driver (Ordinary Grade) afresh by considering the applicant after by holding him as eligible for the post of Staff Car Driver (Ordinary Grade) after granting age relaxation.

c) An order quashing and/or setting aside any selection made in the meantime.

*d) An order directing the respondents to produce/cause production of all relevant records in connection with this instant Original Application.*

*e) Any other order or further order or orders as to this Hon'ble Tribunal may seem fit and proper for the ends of justice."*

3. The case of the applicant as articulated through his Ld. Counsel in nutshell is as under:

There are three sanctioned post of Staff Car Driver in CAT, Kolkata Bench. Since a regular Staff Car Driver, viz. P.K.Saha, was due to be retired on 01.06.2015, notice was issued on 24.10.2013 to fill up the post of Car Driver on daily wage basis and the applicant applied against that post. Vide letter dated 29.11.2013 issued by the Dy. Registrar, CAT, Kolkata Bench, he was called, along with relevant documents, for appearing in the driving test/interview. Being successful in the driving test/interview, he was given offer of appointment dated 28.01.2014 subject to Police Verification and Medical Report. Subsequently, vide Office Order dated 05.02.2014 he was appointed to the post of Car Driver in Kolkata Bench of Central Administrative Tribunal on daily wage basis @ Rs. 361/- per day for a period of 89 days. His appointment was extended from time to time with break of some days. He continued as such till 21.01.2016 and thereafter he worked on outsourcing basis, which started from 01.02.2016. He rendered service for the institution from 16.01.2014 till 21.01.2016, i.e. for about 2 years, on daily wage basis and, thereafter, he has worked through outsourcing for about another 2 years.

4. We called for the record and it is noted that there was no initiation for regular appointment for this post after retirement of Sri P.K.Saha till August, 2018. Vide letter No. PB/17/6/2016-Esttt-II/9352/A dated 13.12.2017, the CAT, Principal Bench, directed to fill up the vacant post of Staff Car Driver of

CAT, Kolkata Bench, as per Amended Recruitment Rules. Thereafter, advertisement was published in Employment News dated 25-31 August, 2018 to fill up the said post and the last date for receipt of application was 31.10.2018. The age limit prescribed in the advertisement was between 18 to 27 years. However, there is a mention that relaxation can be given in the case of employees of Central Govt. or State Govt. or Supreme Court or High Court and the District Courts including the employees of the Central Administrative Tribunal up to the age of 40 years.

5. Applicant applied for the said post within the stipulated period while seeking age relaxation as he was over-aged by about 2 years. Anticipating non-consideration of his application on the ground of he being over-aged, he filed this O.A. seeking the aforesaid relief. This Tribunal vide order dated 25.10.2018 passed the following interim order:

*"3. The certificates annexed to the O.A. shows that at the time of his engagement, i.e. in the year 2014, the applicant was well within the prescribed age limit for direct recruitment. His prayer for regularization of service was never forwarded to the competent authority. He is still serving as Staff Car Driver of Hon'ble Members, who have appreciated his performance vide certificates.*

*4. Therefore, I direct the Respondents to allow him to appear at the selection, which selection shall be subject to the outcome of this O.A.*

*5. It is also submitted that as against 3 Hon'ble Members, only 2 regular Drivers are available and probably there is a need to continue the applicant at present. Therefore, till new selection is made, the applicant be continued to be engaged on usual terms as he is being engaged for the present.*

*6. He has also sought for age relaxation for the purpose of selection, which shall be forwarded to the appropriate authority."*

The aforesaid order has been continuing till date.

6. Although the applicant has rendered for about 4 years of service for the Institution altogether and is also interested to work and compete in the



selection process but he had crossed the age of upper limit of 27 years as prescribed in the advertisement. Otherwise the applicant has requisite qualification for being appointed in the post of Staff Car Driver (Ordinary Grade).

7. Even if the Tribunal passed interim order on 25.10.2018 allowing the applicant to appear in the selection process, which will be the subject to the outcome of the O.A., till now the recruitment process has not started. This application has been made by the applicant for relaxation of age so as to enable him to participate in the recruitment process for Driver.

8. Now the question arises before us as to whether he is eligible for participating in the recruitment process for Driver as he has already crossed the age upper age limit of 27 years as prescribed in the advertisement.

9. We have gone through the Gazette of India so far as recruitment of Staff Car Driver (Ordinary Grade) is concerned and find that in the Notification dated 30.04.2015 at Sl. No. 5 there is a relaxation clause, which reads as under:

*"5. Power to relax.- Where the Chairman, Central Administrative Tribunal is of the opinion that it is necessary or expedient so to do, he may, by order and for reasons to be recorded in writing, relax any of the provisions of these rules in respect of any class or category of person."*

10. The applicant has already served for nearly two years on daily wage basis and about two years on outsourcing. In our considered view, had the recruitment process started immediately after retirement of Sri P.K.Saha on 01.06.2015, the applicant, who was in service on daily wage basis, was well within the upper age limit as prescribed under the rules.



11. Looking into the entire conspectus of the case, we deem it fit to direct the respondent authority to consider the case of the applicant for relaxation of age as per the Gazette of India Notification dated 30.04.2015, as extracted above, to appear in the examination in accordance with law. Ordered accordingly.

The O.A. is accordingly disposed of with no order as to costs.

(N. Neihsia)  
Member (A)

(Manjula Das)  
Member (J)

RK

