
(2020) 12 CAT CK 0021

In the Central Administrative Tribunal

Case No : Original Application No. 1973 Of 2020

Kamal Kant (Retired)

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 03-12-2020

Acts Referred:

Citation : (2020) 12 CAT CK 0021

Advocate : S. N. Verma, R.V. Sinha, Amit Sinha

Judgement

L. Narasimha Reddy, J

1. The applicant retired from the post of Naik Subedar (Junior Commissioned Officer). The Union Public Service Commission (UPSC) issued a

notification No. 14/2020 proposing to conduct selection for various posts including the post of Assistant Director (Group B), in the Ministry of Tourism.

The applicant intends to be a candidate for selection. The age limit prescribed for the post is 30 years and the relaxation to the extent of 5 years is

granted in favour of ex-servicemen. The applicant is 42 years of age.

2. The applicant contends that according to ExServicemen (Re-employment in Central Civil Services and Posts) Amendment Rules 2012 (ESM Rules,

2012), he is entitled to age relaxation to the extent of length of service between 2003 to 2019 + 3 years and the notification, in so far as it does not

provides for such relaxation is bad in law. He has challenged the Advertisement No. 14/2020 and sought a direction to the respondents to extend him,

the benefit of relaxation of age under para 5 of ESM Rules, 2012. The applicant contends that the rules provide for relaxation and the UPSC did not

implement the same in letter and spirit.

2. We heard the applicant who argued his case in person, satlve Mr. R. V. Sinha

with Mr. Amit Sinha and Mr. S. N. Verma, Admins learned counsel for the respondents.

3. In the notification, the UPSC has clearly mentioned that the age limit for the candidates to the post of Assistant Director as 30 years and the relaxation to the extent of 5 years is granted in favour of ex-servicemen. The applicant is seeking the benefit in terms of Rule 5 of ESM Rules, 2012.

It would be useful and necessary to extract Rule 5. It reads:-

(5) (a) For appointment to vacancies in Group B(Non Gazetted), Group C or Group D posts in Central Government, an exserviceman shall be allowed

to deduct the period of actual military service from his actual age and if the resultant age does not exceed the maximum age limit prescribed for the

post for which he is seeking appointment by more than three years, he shall be deemed to satisfy the condition regarding age limit.

(b) For appointment to any vacancy in Group A and Group B services -or posts filled by direct recruitment otherwise than on the results of an Open

All India Competitive Examination, the upper age limit shall be relaxed by the length of military service increased by three years in the case of

commissioned Commissioned Officers or Short Service Commissioned Officers.

(c) For appointment to any vacancy in Group A and Group B services or posts filled by direct recruitment on the results of an All India Competitive

Examination, the ex-servicemen and Commissioned Officers including Emergency commissioned Officers or Short Service Commissioned Officers

who have rendered atleast five ex-servicemen and officers including Emergency years military services and have been released -,

(i) on completion of assignment (including those whose assignment is due to be completed within one year) otherwise than by way of dismissal or

discharge on account of misconduct or inefficiency; or

(ii) on account of physical disability attributable to military service or on invalidment, shall be allowed maximum relaxation of five years in the upper age limit.

4. From perusal of this, it is evident that the rule making authority maintained distinction between the posts, that are filled by conducting All India test

on the one hand and the posts which are filled by conducting interview alone, on the other. The first category of posts is covered under Rule 5 (c) of

ESM Rules, 2012 and the second category under 5 (b). Rule 5 (c) clearly mentions that the relaxation of age limit for such posts in favour of ex-servicemen is 5 years. That is what exactly, the UPSC has mentioned in the notification.

5. An attempt is made by the applicant to convince us that the post is to be filled only by conducting the interview and he relied upon Note-II of clause

3 contained in the notification. The note is general in nature and in every notification, the UPSC reserves to it, the power to adopt short listing criteria.

Note -II reads as under: ""Note-1II IN THE EVENT OF NUMBER OF APPLICATIONS BEING LARGE, COMMISSION WILL ADOPT

SHORT LISTING CRITERIA TO RESTRICT THE NUMBER OF CANDIDATES TO BE CALLED FOR INTERVIEW TO A REASONABLE

NUMBER BY ANY OR MORE OF THE FOLLOWING METHODS:

(a) on the basis of Desirable qualification (DQ) or any one or all of the DQs if more than one DQ is prescribed

(b) Qn. the basis of higher educational qualifications than the minimum prescribed in the advertisement.

(c) On the basis of higher experience in the relevant field than the minimum prescribed in the advertisement

(d) By counting experience before or after the acquisition of essential qualifications.

(e) By invoking experience even in cases where there is no experience or as Desirable mentioned either as Essential Qualification (EQ) Qualification

(DQ)

(f) By holding a Recruitment Test. OA No. 1973/2020

THE CANDIDATE SHOULD, THEREFORE, MENTION ALL HIS/HER QUALIFICATIONS AND EXPERIENCE IN THE RELEVANT

FIELD OVER AND ABOVE THE MINIMUM QUALIFICATIONS.

6. By simply referring to the word ""interview"" occurring in the Note, the applicant contends that the post would be filled only on that basis. He does

not appear to be aware of the fact that the interview would follow the written test, for the post.

7. We do not find any merit in the OA. It is accordingly dismissed. There shall be no order as to costs.