
(2003) 07 GAU CK 0036
In the Gauhati High Court
Case No : Writ Petition (C) No. 5144 of 1998

Naba Kanta Pathak

APPELLANT

Vs

Indian Oil Corporation Ltd. and Others

RESPONDENT

Date of Decision : 28-07-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 3 GLR 441

Hon'ble Judges : Ranjan Gogoi, J

Bench : Single Bench

Advocate : B.C. Pathak, M. Pathak and R.P. Sarma, for the Appellant; Standing Counsel, P.C. Deka and S.K. Medhi, for the Respondent

Final Decision : Dismissed

Judgement

Ranjan Gogoi, J.—The writ petitioner, after his graduation, registered his name in the Employment Exchange at Guwahati. His name was sponsored by the Employment Exchange for undergoing Apprenticeship Training as a Boiler Attendant. The petitioner on being selected as an apprentice by duly constituted Selection Board was deputed for the training which was duly completed by him in the year 1995. The petitioner also participated and qualified in the All India Trade Test in the year 1998, Certain vacancies occurred in the respondent-organization for filling up the posts of P & U Operator and it appears that the names of 113 candidates were sponsored by the Employment Exchange. The name of the petitioner was not sponsored and, therefore, he called on the officers of the respondent-organisation who informed him that it is on account of his becoming overaged in the meantime, that the petitioner was not qualified to take part in the selection for the post of P & U Operator. Aggrieved, the instant writ petition has been filed.

2. The respondents have filed an affidavit wherein they have reiterated their stand that the petitioner, as per his Matriculation Certificate, was 34 years 3 months 9 days on 11.9.1998 i.e., the date of selection. The maximum age limit

for the post in question is 30 years and even if, the benefit of the period of 3 years" of Apprenticeship Training is granted to the petitioner by virtue of the Apex Court judgment in the case Uttar Pradesh State Road Transport Corporation and another Vs. Uttar Pradesh Parivahan Nigam Shishukhs Berozgar Sangh and others, the petitioner would still be over-aged.

3. Mr. B.C. Pathak, learned counsel for the petitioner submits that on the date on which the petitioner completed his Apprenticeship Training, he was 31 years of age and, therefore, he was not eligible for any employment in the respondent-organisation. The argument advanced does not merit acceptance inasmuch as there could be certain other posts to which a higher age limit could be applicable. This Court in exercise of power under Article 226 of the Constitution would not like to sit in judgment over the decision of the authority to fix the upper age limit for a particular post. It has next been contended, on behalf of the petitioner, that the relaxation of age to the extent of period of the Apprenticeship Training, as laid down by the Apex Court would be a flexible rule and the writ Court in exercise of power under Article 226 of the Constitution would have ample power to extend the relaxation in an appropriate case.

4. I have considered the judgment of the Apex Court in the case of U.P. State Road Transport Corporation (supra) and it is my considered view that what has been laid down in Para 12 of the aforesaid judgment are rules of general application to the cases of all the apprentices who have undergone different Apprenticeship Training programmes. The Apex Court having been laid down rules of general application in respect of all apprentices under the Apprenticeship Act, 1961, no deviation in individual cases would be permissible. The petitioner being over-aged on the date on which the selection took place, even after being granted maximum benefit of taxation allowable to persons like the petitioner, the petitioner was not qualified to sit in the selection held. I do not find any legally enforceable right in the writ petitioner so as to entitle him to a writ or direction as prayed for.

5. The writ petition, therefore, deserves to be dismissed which I hereby do. No costs.