

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

RA 210/2002 in
OA 576/2002

New Delhi this the 15th day of November, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri V.K. Majotra, Member (A)

1. All India CPWD (MRM) Karamchari Sangathan (Regd.) through its President Shri Satish Kumar
2. Jeet Singh S/O Puma Singh
Plumber
3. Manohar Dutt S/O Sh. Permanand
Plumber
4. Deep Chand S/O Sh. Challu Ram
Mason
5. Sohan Lal S/O Heera Lal
Mason
6. Mahavir Singh S/O Phool Singh
Carpenter
7. Jamna Lal S/O Bhairo Lal
Mason
8. Rajbir Singh S/O Khaedu Singh
Carpenter
9. Jagdsish Prasad S/O Ram Singh
Carpenter
10. Ishwar Chand S/O Dhani Ram
Mason
11. Laxman Prasad S/O Hattu Ram
Mason
12. Nand Lal S/O Nathu Ram
Plumber
13. Dwarka Das S/O Ram Dayal
Plumber
14. Prabhu Dayal S/O Narain Ram
Plumber
15. Ram Bahadur Gupta S/O Ram
Adhar Gupta, Plumber
16. Ranjeet Singh S/O Balwant Singh
Painter

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17. Surender Singh S/O Janak Singh
Plumber
(All C/O All India CPWD (MRM)
Karamchari Sangathan (Regd.)
through its President, Shri
Satish Kumar, 4823, Balbir Nagar
Extension, Gali No.13, Shahdara,
Delhi-32

..Applicants

(By Advocate Sh.Naresh Kaushik, learned
counsel through proxy counsel Ms.Shilpa
Chouhan)

VERSUS

1. The Director General of Works,
CPWD, Nirman Bhawan, New Delhi.
2. The Supdt.Engineer,
Co-ordination (Elect), CPWD,
East Block, R.K.Puram, New Delhi.
3. The Supdt.Engineer (DCC-IX),
CPWD, I.P.Bhawan, New Delhi.
4. The Executive Engineer,
(A) Division, CPWD, I.P.Bhawan,
New Delhi.
5. The Executive Engineer,
(L) Division, C.P.W.D.
Barakhamba Road, New Delhi.

..Respondents

(None for the respondents)

O R D E R (ORAL)

(Hon'ble Shri V.K.Majotra, Member (A)

Ms.Shilpa Chouhan, learned proxy counsel for Shri
Naresh Kaushik, learned counsel of the applicants heard. Para
4 of the order dated 30.7.2002 in OA 576/2002 reads as
follows:

" After due consideration of the rival
contentions and in the facts and circumstances of
the case, in our considered view, after holding the
trade test to be held on 21.9.2002, respondents
should accord benefit of ACP Scheme to such
personnel who qualify in the trade test. Recovery
from the pay and allowances should be made from
such personnel who do not qualify in the trade
test, but in easy instalments. Such recovery has
also to be made from the pay and allowances of the
persons who qualify now in the trade test for the

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amounts paid prior to their qualification in the trade test. We order accordingly and also that the stay order granted on 27.2.2002, in the facts and circumstances of the case shall continue till the results of the trade test are declared".

She has stated that at the time when these orders were passed by the Tribunal, the respondents had issued Memo. dated 11.6.2002 (Annexure 2) which had not come to the notice of the applicants and as such could not be brought to the notice of the Tribunal, according to her. This order states that eligible worker who has completed more than 12/24 years of service and passed trade test in the first instance would be granted the benefit of ACP Scheme w.e.f. 9.8.99 and if such worker is unable to clear the trade test or does not appear for the trade test, he is not eligible for the ACP Scheme w.e.f. 9.8.99. She has further stated that eventually eligible workers who pass the trade test subsequently, ACP Scheme would be applicable to them from the date of clearing the trade test and not from 9.8.99. She has particularly stated that as per the Tribunal's order recovery has to be made from the pay and allowances of such personnel who do not qualify in the trade test. Such recovery has to be made from the pay and allowances of the persons who qualify now in the trade test for the amounts paid prior to their qualification in the trade test.

2. We have considered the points made by the learned proxy counsel that Govt.Memo. dated 11.6.2002 passed by the respondents had not come to the notice of the applicants. ~~and~~ If they ^{had} exercised due diligence it could have ~~subsequently~~ come to their notice ^{at the proper time} and if they have not exercised due diligence and

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remained unaware of existence of Govt.Memo. dated 11.6.2002, that cannot be sufficient ground for re calling the order dated 30.7.2002. Having regard to the provisions of Section 22(3)(f) of Administrative Tribunals Act, 1985 read with the provisions of Order 47, Rule 1, CPC such consideration is beyond the scope and ambit of review and as such RA is dismissed.



(V.K.Majotra)
Member (A)



(Smt.Lakshmi Swaminathan)
Vice Chairman (J)

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