

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

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O. A. No. 3367/2002

New Delhi this the 14th day of October, 2003

HON'BLE MR. KULDIP SINGH, MEMBER (J)
HON'BLE MR. S.K. NAIK, MEMBER (A)

Tajinder Pal Singh
S/o Shri Kuldip Singh
R/o C-4/7, Vashisht Park,
Janak Puri,
Delhi-110 046.

... Applicant

By Advocate : Shri S. K. Gupta.

Versus

1. Union of India
Through Secretary,
Ministry of Finance,
Department of Economic Affairs
(Banking Division)
Jeevan Deep Building,
Parliament Street,
New Delhi.

2. Registrar,
Debt Recovery Tribunal-II,
Sanskriti Bhawan, D.B. Road,
Karol Bagh,
New Delhi-110 030.

... Respondents.

By Advocate : Shri Bhaskar Bhardwaj.

ORDER (ORAL)

By Hon'ble Mr. Kuldip Singh, Member (J)

The applicant is aggrieved of the fact that the respondents have invited the applications for the post of Driver (Staff Car Driver) to be filled up on transfer on deputation basis in violation of the Recruitment Rules issued vide Notification dated 11.3.2002. It is also submitted that as per Rule 5 of the employees holding the post on the date of the commencement of the Rules deemed to have been appointed whereas the office of the respondents have not asked the applicant to opt for the same though the applicant was willing to opt to be

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absorbed. Thus the advertisement issued in the month of February, 2002 is illegal, arbitrary and is in violation of the rules and regulations so the same should be quashed.

2. The OA is being contested by the respondents. Respondents in their reply stated that the applicant was appointed on ad hoc basis for a period of 89 days which is continued from time to time.

3. It is further stated that in the appointment letter it was clearly mentioned that the appointment is purely in exigencies of services and on ad hoc basis for a period of 89 days and does not have right to be absorbed. Thus the relief sought by the applicant is not justified as this comes in the way of appointment of regular incumbent as per Recruitment Rules.

4. We have heard the learned counsel for the parties and gone through the record.

5. The applicant has probably relied upon Rule 5 of the Notification dated 11.3.2002 which deals with the initial constitution wherein it was provided that the employees holding the posts mentioned in the Schedule to the rules in the Debts Recovery Appellate Tribunal-II Delhi on the date of commencement of the rules shall be deemed to have been appointed at the Initial Constitution stage of the posts, if so opted within 30 days of the publication of these rules and it is that option which has not been offered to him and have had the same been offered to him then probably he should have asked for appointment at the initial constitution stage of the post.

6. It is an admitted case of the applicant that as regards the post of the Staff Car Driver is concerned, Recruitment Rules require that the same can be filled 100% by promotion failing which by deputation, failing both by direct recruitment. So the first mode of appointment is from

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Group 'D' employees, second mode of appointment is by transfer on deputation and in case both these sources fail then only direct recruitment for the post of Staff Car Driver can be resorted.

7. Admittedly the applicant is not a regular Group 'D' employee who can be appointed/promoted as Staff Car Driver so he is not covered under the first mode of recruitment. The applicant is not even an employee on deputation so he cannot be even appointed on transfer on deputation.

8. As regards the third mode of recruitment, i.e. by direct recruitment failing first mode is concerned, if the department has to resort to that mode then the department has to make appointments in accordance with the established norms by issuing public notification regarding the vacancies and calling upon the general public to compete for the same and in that case the applicant can also apply and can be considered for the post of direct recruitment. The plea of the applicant that he is holding ^{on regular basis} a post has no merits because applicant has been working on short term ad hoc basis from time to time, i.e., for 89 days at a stretch of time so he is not holding any regular post as such he cannot be covered under Rule 5, for the post of Staff Car Driver.

9. Shri Gupta, Counsel appearing for the applicant has also made an oral prayer that till the post is filled by regular manner, the services of the applicant may not be terminated. In our view this relief, as prayed by the applicant, cannot be granted since the applicant has filed the OA seeking quashing of the advertisement by which the applications have been invited for the post of Staff Car Driver on transfer on deputation basis and the relief claimed is not a consequential to that as the


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applicant is stated to have been engaged from time to time only on ad hoc basis so to our mind the ^{he} ~~same~~ has not case even for the relief to continue in service till a regular appointment is made. No interference is called for.

10. In view of the above, OA has no merits and the same is dismissed. No costs.


(S.K. NAIK)
MEMBER (A)


(KULDIP SINGH)
MEMBER (J)

Rakesh