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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

RA No. 64/2003 in
MA 505/2003
OA 561/2001

New Delhi this the 29th day of July, 2003

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

Union of India and others

.. Applicants/
Respondents
in OA

(By Advocate Shri H.K. Gangwani)

VERSUS

Shri Dharam Pal Singh and Others

.. Respondents/
Applicants
in OA

(By Advocate Shri K.K. Patel)

O R D E R (ORAL)

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

This Review Application (RA 64/2003) has been filed by the applicants (Original respondents) in OA 561/2001 seeking review of the order dated 10.12.2002. Learned counsel on behalf of review applicants (original respondents) has stated that the matter has been decided ex-parte without hearing the counsel as he had reached a little late in the Court. On being told that vide order dated 12.11.2002 the respondents in the OA had been asked to file their response to the additional affidavit to such documents filed by the respondents (original applicants) in the OA, learned counsel stated that though the original respondents have not filed any response to the additional affidavit filed by the applicants in OA, he would have rebutted the averments therein by oral submissions. He

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further stated that he would have relied upon the judgements of the Full Bench in **Ram Lubhaya Vs. UOI** (OA 1037/1997 with connected OAs) decided on 7.12.2000, **Aslam Khan Vs. UOI** (FB Jaipur CAT) dated 30.10.2000 and the order of the Delhi High Court in **UOI Vs. Lekhraj** (CWP 4121/970 dated 18.5.2002.

2. The ratio of these judgements is that while the claim of Material Checking Clerks (MCCs) can be considered for regularisation in the parent Department, no regularisation of MCCs can be made in the Construction Division which is a temporary organisation.

3. Learned counsel of the respondents(Original applicants) herein Shri K.K.Patel stated that he would have no objection if the applicants claims for regularisation on the post of MCCs is considered in the parent Department/ respondent No.3 and not in the Construction Division/respondent No.4. Learned counsel of the Review applicants states that they would be willing to consider the claims of the applicants in the OA for regularisation on the post of MCCs in parent Department/respondent No.3 in accordance with law and rules.

4. Having regard to the averments made by the learned counsel of both sides, in the interest of justice, we allow RA 64/2003 and modify the directions contained in

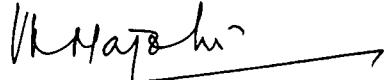
Para 7 of order dated 10.12.2002 in OA 561/2001 by substituting paragraph 7 as follows:-

"7. Having regard to the averments made in the additional affidavit by the applicants regarding regularisation of applicants in Group 'D' and on the analogy that applicants' juniors have been regularised as MCCs while the applicants have been ignored for such consideration, we consider it appropriate to direct the respondent No.3 to consider the claim of the applicants for regularisation on the post of MCCs in their parent Division after considering the service records and subjecting him to viva voce test as per rules so far as the applicant No.2 is concerned, and considering the claims of the applicants 1 and 3 on scrutiny of their service records as also by holding written test/ viva voce test as per rules. Respondent No.3 is further directed that on selection the applicants shall be allocated seniority in their parent Division from the date their juniors were so regularised as MCCs. The above action shall be taken as expeditiously as possible and in any case within a period of three months from the date of receipt of a copy of this order. No order as to costs".

4. With the above observations, RA 64/2003 and MA 505/2003 are disposed of.

5. Let a copy of this order be issued to learned counsel for both the parties.

6. Let a copy of this order be placed in OA 561/2001.


(V.K. Majotra)
Member (A)


(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

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