

12

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1535/2001

Monday, this the 4th day of February, 2002

Hon'ble Mrs. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Mr. S.A.T. Rizvi, Member (A)

Shri Jitendra Kumar
son of Shri Charan Singh
Qtr. No.191, Police Lines
Vikas Puri
New Delhi

..Applicant

(By Advocate: Shri K.R.Sachdeva)

Versus

Commissioner of Police
Delhi.

..Respondent

(By Advocate: Mrs.Jasmine Ahmed)

O R D E R (ORAL)

Hon'ble Shri S.A.T. Rizvi, M(A):

In pursuance of the public notice/advertisement put out by the respondent (A-2), the applicant became a candidate for appointment to one of the posts of Constable/Driver. The last date for submission of applications was fixed as 18.1.1999. After going through the usual tests, the applicant was put to driving/trade test as well on 7.2.2000. He cleared the test. Later, he was interviewed on 27.4.2000 and thereafter, sent for medical examination on 19.7.2000. The medical test was cleared by him on 2.8.2000. He was thus ready to receive a letter of appointment when instead he received a notice to show cause as to why his candidature should not be cancelled on the ground that he did not possess a valid heavy duty driving licence on the date he submitted his application, i.e., on 18.1.1999. The applicant's reply to the aforesaid notice was duly considered and by an order passed on 24.4.2001 (A-1), his candidature for the

(2)

post of Constable/Driver was cancelled. Hence, the present OA.

2. The learned counsel appearing on behalf of the applicant submits that the impugned order dated 24.4.2001 is illegal and could not have been passed after the applicant had cleared all the tests, including the driving test. He also submits that though the applicant did not possess a valid heavy duty driving licence as on 18.1.1999, the date of submission of application by the applicant, he came to possess a valid licence ^{& in that regard} on 5.5.1999. The applicant was ~~trade~~ (Driver) tested only after he came to possess a valid heavy duty driving licence. There is ^{& thus} according to the learned counsel, nothing against the applicant which could prevent his appointment. The impugned order (A-1), therefore, deserves to be quashed and set aside.

3. In support of the various contentions raised by the learned counsel for the applicant, he has placed reliance on the order passed on 19.1.2001 in OA-1170/2000 and the orders passed by this very Tribunal again on 19.8.1999 in OA Nos.1764/98 connected with OA Nos. 1624/98, 1484/99, 69/99, 305/99 and 337/99. The aforesaid order passed by the Tribunal was taken to Hon'ble High Court through various CWP's. One such petition is numbered as CWP-7485/99 in OA-305/99 (one of the applicants in the Tribunal's order dated 19.8.1999). The learned counsel has also placed reliance on Buddhi Nath Chaudhary and Ors. etc. Vs. Abahi Kumar and Ors., decided by the Hon'ble Supreme Court on 21.2.2001 and

(3)

reported as 2001 (3) AISLJ 302. The learned counsel appearing on behalf of the respondent has, on the other hand, placed reliance on the relevant recruitment rules and the departmental instructions (Standing Orders) and the information revealed by the applicant in his application filed on 18.1.1999. According to her, the applicant does not have a case in view of the fact that he did not possess a valid heavy duty driving licence on the date of submission of his application on 18.1.1999 and further on the ground that he gave incorrect/misleading information in column 14 of his application. She has also, in support of her claim, placed reliance on State of Rajasthan Vs. Hitendra Kumar Bhatt reported as 1998 (1) SC SLJ 197.

4. We have considered the submissions made by the learned counsel on either side and have perused the relevant recruitment rules, the departmental instructions (Standing Orders) as well as the application filed by the applicant. We have also perused the aforesaid judgements relied upon by the learned counsel.

5. Since the learned counsel for the applicant had raised a contention about the provisions made in the relevant rule, we will deal with ^{the same} it straightaway by reproducing the relevant provision (R-1) as under:-

"1. Name of the post M.T.Driver/Despatch Rider (Constable)

XX XX XX XX

8. Educational and other qualifications required

(a) Matriculate or equivalent.

(4)

- for direct recruits. (b) Should be able to drive heavy vehicle with confidence.
- (c) Current driving licence for Heavy/Light vehicles."

The learned counsel has sought to argue that once during the trade test it was found that the applicant could drive a heavy vehicle with confidence in terms of (b) above, the applicant could be deemed to be ~~an~~ educationally etc. qualified even if he held a licence for driving a light vehicle as on the date of submission of his application. This has been seriously disputed by the learned counsel appearing on behalf of the respondent, who has drawn our attention to the provisions made in ~~section~~ ^{clause} (1) above. According to her, the aforesaid provision read with the provision made in column (8) above would clearly imply that while a M.T. Driver was supposed to possess a current driving licence for a heavy vehicle, a Despatch Rider could, on the other hand, possess a licence for a light vehicle. She has also drawn our attention to what has been provided in the advertisement (A-2). We have perused the aforesaid advertisement to find for ourselves that the requirements ~~laid~~ ^{set} down therein is clearly for a current driving licence for heavy motor vehicles. Thus, the aforesaid advertisement read with the aforesaid rules leave us in no manner of doubt about the correct nature of the provisions made in this regard. There is no doubt, in the circumstances, that the applicant was required to possess a heavy duty driving licence ^{as} on 18.1.1999. It is not disputed that he did not possess one on the date

(5)

aforesaid. It is also not in dispute that against column (14) of the application form, the applicant has given out that he possess^{ed} a heavy duty driving licence while in fact he did not, as already stated, possess any such licence on the relevant date.

6. The learned counsel appearing on behalf of the respondent has also drawn our attention to the provisions made in the Standing Order No.208 (R-2) which deals with the procedure to be followed in making appointments to the post of Drivers. At page 7, the aforesaid orders provide~~s~~ as under:-

"The names of the selected candidates found medically fit, will be brought on the panel provisionally. They will be appointed as Constable (Driver) in Delhi Police only after receipt of clear Character & antecedent reports, verification of education & driving license, etc..."

(emphasis supplied)

7. If one has regard to the aforesaid provision, it is clear that the verification contemplated therein is to be carried out only after a candidate has been brought on the panel provisionally. The applicant was undoubtedly brought on the panel provisionally after he cleared the medical test, the last of the various tests he had to undergo. We have already noticed that the applicant's license was endorsed for heavy duty driving on 5.5.1999. This fact, according to the learned counsel for the respondent, came to their notice when they took up the work of verification of applicant's antecedents etc. in terms of the aforesaid provision made in the Standing

Orders. It was in these circumstances, according to her, that a show cause notice had to be issued to the applicant. That the endorsement of the applicant's licence for heavy duty driving w.e.f. 5.5.1999 ^{had} ~~should~~ ^{already} ~~been~~ come to the respondent's notice when the applicant filed a copy thereof before his trade test on 7.2.2000 or even on earlier occasions when he had to undergo sundry other tests, will not materially alter the situation in favour of the applicant. The fact remains that the applicant, according to the learned counsel, has made a misleading statement in his application and, in normal course, such discrepancies come to notice only when the Department undertakes regular verification work connected with appointments to various posts.

8. To buttress her arguments, the learned counsel for the respondent has proceeded to rely on the judgement rendered by the Supreme Court in State of Rajasthan Vs. Hitendra Kumar Bhatt's case (supra), wherein it has been held that a cut off date by which all the requirements relating to ^{consideration for appointment} ~~qualifications~~ have to be met cannot be ignored in an individual case. The facts and circumstances revealed in the aforesaid case are substantially similar to the facts and circumstances of the present ^{OA} ~~case~~. We are, therefore, inclined to follow the ratio of the aforesaid judgement in the instant case. The various judgements relied upon by the learned counsel for the applicant are, in our judgement, on facts distinguished from the present one. In the circumstances, the ratio of the judgements relied upon by him will not find application in the circumstances of the present OA.

Our view in the matter stands reinforced by what the Supreme Court has held in State of Rajasthan vs. Hitendra Kumar Bhatt's case (supra).

9. Since a distinct issue has been raised regarding the ^{even} reliance of cut off date, we will like to point out that such dates are fixed invariably in all such cases. There is a purpose behind fixation of cut off dates. If such dates are not adhered to strictly, some people will clearly succeed in deriving ~~in~~ an unfair advantage over the others. This will be violative of Articles 14 & 16 of the Constitution. It is for this reason that the arguments advanced on behalf of the respondent have found favour with us.

10. In the circumstances, the OA is devoid of merit and is dismissed without any order as to costs.

S.A.T. Rizvi
(S.A.T. Rizvi)
Member (A)

Lakshmi Swaminathan
(Mrs. Lakshmi Swaminathan)
Vice Chairman (J)

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