

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 419/2001

(9)

New Delhi this the 14th day of September, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri Govindan S. Tamai, Member (A)

Man Mohan
S/O Shri Ram Pravish working
as Peon in Cost Accounts Branch,
Lok Nayak Bhawan, New Delhi.

..Applicant

(By learned proxy counsel Shri
Yogesh Sharma)

VERSUS

1. Union of India, through
its Secretary, Ministry of
Finance, North Block, New Delhi.
2. The Director,
Ministry of Finance, Department
of Expenditure, North Block, New Delhi.
3. Shri Nand Kishore,
Staff Car Driver Service through
U.S. to GOI Ministry of Finance, North
Block, Deptt. of Expenditure, New Delhi.

..Respondents

(By Advocate Shri K.R. Sachdeva)

O R D E R (ORAL)

(Hon'ble Shri Govindan S. Tamai, Member (A)

In this case, the applicant seeks to have the orders dated 17.10.2000 and 16.11.2000 quashed and set aside as illegal, unjust and arbitrary and have directions issued to the respondents to consider the case of applicant for appointment to the post of Staff Car Driver/2. The facts as brought out in the OA are that the applicant who originally joined the respondents on daily wage basis w.e.f. 10.9.1993 became a Peon on 13.9.1993. His services were regularised w.e.f. 25.3.1996 and in the seniority list of Peons dated 11.10.1999 his name appeared at Serial No.120 and the name of respondent No.3 at Serial No.122. Both the applicant and respondent No.3 applied for selection to the

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post of Staff Car Driver (Ordinary Grade) and they were directed to appear for the trade test scheduled for 28.9.2000 and they were directed to furnish an undertaking to the effect that they have not appeared for any such Trade Test during the last six months. Respondents issued on 17.10.2000, an order appointing respondent No.3 to the post of Staff Car Driver, in preference to the applicant. Hence this application. According to Shri Yogesh Sharma, learned proxy counsel as the applicant is above respondent No.3 in seniority as Peon, he should have been appointed as Staff Car Driver, though he fairly agrees that the Staff Car Driver ^{is post of} ~~promotional~~ is not a post.

3. Contesting the above, Shri K.R.Sachdeva, learned counsel for the respondents points out that for the promotion to the post of Staff Car Driver seniority in the grade of Peon is not the criterion. It was indeed not a promotional post ~~per se~~ ^{but a selection post}. Both the applicant and respondent No.3 were trade tested so as to adjudge their suitability for the post of Staff Car Driver. Staff Car Driver is not the direct line of promotion for group 'D' staff and as such seniority in Group 'D' cannot be made the basis to consider selection of candidate against the available vacancy. Accordingly selection has been made with the assistance of an outside expert, which resulted in the placement of respondent No.3 at first position and of the applicant at 2nd position. Hence the order appointing respondent No.3 as Staff Car Driver in preference to the applicant. There was no case to interfere in this matter, urges Shri K.R. Sachdeva, learned counsel.

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4. On examination of the matter and consideration of the rival contentions ^{We observe} that the post of Staff Car Driver was a selection post for which Peons could also apply and get selected if found fit but it was not a direct promotion posts for Peons. That being the case, seniority in the grade of Peons is not material for determining the placement as Staff Car Driver. In the Selection Test held where an outside expert was also present, respondent No.3 was placed higher than the applicant for appointment as Staff Car Driver. Hence his appointment through the impugned order. The same cannot be assailed as the applicant has not shown that the selection was in any way vitiated or irregular.

5. The applicant has not made out any case for our interference in the above selection. The application, therefore, fails and is accordingly dismissed. No costs.

Govindan S.Tampi)
Member (A)

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