

Central Administrative Tribunal, Principal Bench

M.A. No. 1253/99 In

C.P. No. 379/99

M.A. No. 167/2000

Original Application No. 1431 of 1999

New Delhi, this the 21st day of ^{May} June, 2000

Hon'ble Mr. S. R. Adige, Vice Chairman(A)

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

O.A. 1431 of 1999

1. Nand Kishore S/o Shri Ballu Ram
2. Amar Chand S/o Shri Mehar Chand
3. Smt. Soni W/o Usman
4. Smt. Nathi W/o Shri Chitter Ram
5. Sardar Singh S/o Shri Ami Lal
6. Balchand S/o Shri Anika Ram
7. Smt. Guddi W/o Shri Wanja Ram
8. Smt. Maya W/o Shri Raj Pal
9. Man Singh S/o Shri Chando Ram
10. Shivan Bhagat S/o Shri Tolamal
11. Wazir Chand S/o Shri Shambu Ram
12. Dwarka S/o Shri Jamuna Ram
13. Ramdhan S/o Shri Vasudev
14. Ram Dayal S/o Shri Punnu Ram
15. Smt. Milka Bai W/o Shri Banju Ram
16. Smt. Murti W/o Shri Hans Raj
17. Shri Munshi Ram S/o Shri Kamo Ram
18. Nanak Chand S/o Shri Hari Singh
19. Shri Balbir Singh S/o Shri Mehar Chand
20. Ram Kishan S/o Shri Mam Chand
21. Balraj S/o Shri Dharambir
22. Smt. Baleshwari W/o Shri Mahender
23. Smt. Sodhi W/o Shri Puran
24. Smt. Gulla W/o Shri Balbir
25. Shri Badri Prasad S/o Shri Bhagirath
26. Shri Ballu Ram S/o Shri Khilloo Ram

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27. Lala Ram S/o Shri Sahi Ram
 28. Richa Ram S/o Shri Ram Phal
 29. Jeet Singh S/o Shri Prahlad
 30. Satish Kumar S/o Shri Bhoja Ram
 31. Chinta Ram S/o Shri Budh Ram
 32. Bhoori S/o Shri Sahi Ram
 33. Ram Pal S/o Shri Phool Singh
 34. Shyam Bir S/o Shri Shiv Charan
 35. Rajbir S/o Shri Har Lal
 36. Ram Pal S/o Shri Ram Phal
 37. Subey Singh S/o Shri Netra Pal
 38. Narinder S/o Shri Deep Chand
 39. Dharma S/o Shri Sahi Ram
 40. Joginder S/o Shri Paras Ram
 41. Mahabir Singh S/o Shri Shish Ram
 42. Mukesh Kumar S/o Shri Chander Sain
 43. Anoop Singh S/o Shri Khazan Singh
 44. Munesh Kumar S/o Shri Jagat Singh
 45. Lal Chand S/o Shri Gopi Ram
 46. Ishwar S/o Shri Budh Ram
 47. Shiv Charan S/o Shri Roop Chand
 48. Bhagat Ram S/o Shri Raghu Nath
 49. Vijender Kumar S/o Shri Ram Singh
 50. Meer Singh S/o Shri Dig Ram
 51. Daya Chand S/o Shri Gaje Lal
 52. Naresh S/o Shri Daya Chand
 53. Gopi Ram S/o Shri Heera
 54. Ramesh Singh S/o Shri Daryao Singh
 55. Mahesh S/o Shri Heram
-Applicants
(All the above names applicants are
R/o Sanjay Colony, Bhati Mines,
Near Mehrauli, New Delhi-110 030.

(By Advocate - Shri K.M.M. Khan)

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Versus

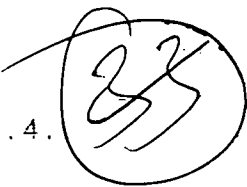


1. Government of National Capital Territory of Delhi, Represented through the Chief Secretary, Old Secretariat, Civil Lines, Delhi-54.
 2. (X) Union of India represented through the Secretary, Department of Personnel and Administrative Reforms, Government of India, New Delhi. 2. Development Commissioner, Under Hill Road, Govt of NCT Delhi
 3. The Principal Secretary, Education Department, Government of NCT, Delhi.
 4. The Secretary, Revenue Department, Government of NCT Delhi.
 5. The Secretary, Forests and Environment Department, Government of N.C.T. Delhi.
 6. The Secretary, Public Works Department, Government of NCT Delhi.
 7. The Secretary, Finance Department, Government of NCT, Delhi.
 8. The Secretary, Flood and Irrigation Department, Government of N.C.T., Delhi.
 9. The Secretary, Food and Civil Supplies Department, Government of N.C.T., Delhi.
 10. The Secretary, Health and Family Welfare Department, Government of NCT, Delhi.
 11. The Secretary, Social Welfare Department, Government of N.C.T., Delhi.
 12. The Secretary, Rural Development, Government of NCT Delhi.
 13. The Secretary, Services Department, Government of NCT Delhi.
- Respondents

(By Advocates- S/Shri Rajinder Pandita, Vijay Pandita,
Counsel for respondents.

Sd/- Ashwarya and Shri Rakesh Bhatnagar,
Counsel for respondent No. 1

Sd/- Tajinder Kaur for respondent No. 13.

① Connected with Court's
order dated 10.11.2000

4.   
C.P. 379/99 In OA 1431/99

Nand Kishore and Others

...Petitioners


By Advocate Shri K.M.M. Khan.

Versus

1. Shri Omesh Saigal
The Chief Secretary,
Government of NCT of Delhi,
5, Sham Nath Marg,
Delhi-110 054.
2. Shri S. Malaichami
The Secretary,
Department of Social Welfare,
5/9 Underhill Road, Civil Lines,
Government of NCT of Delhi,
Delhi.
3. Shri N. Diwakar
The Director, Social Welfare Department,
Canning Lane, K.G. Marg, Government of NCT of Delhi,
Delhi-110 001.
4. Shri R. Chandramohan
The Secretary,
Department of Health and Family Welfare,
Government of NCT of Delhi,
5, Sham Nath Marg,
Delhi-110 054.
5. Shri (Dr). B.K. Sinha
The Director of Health Services,
Health and Family Welfare/Directorate of H.S.,
Government of NCT of Delhi,
'E' Block, Saraswati Bhawan,
Connaught Place, New Delhi-110 001.
6. Shri Khem Chand
Deputy Director (Admn.),
Social Welfare Directorate,
Government of N.C.T. of Delhi,
1, Canning Lane, K.G. Marg,
New Delhi-110 001.
7. Shri (Dr.). T.B. Chakraborty,
C.M. D. (Hq.), H.O.O.,
Directorate of Health Services (HS),
Department of Social Welfare,
Government of NCT of Delhi
E- Block, Saraswati Bhawan,
Connaught Place,
New Delhi-110 001.

...Respondents

By Advocates Shri Rajinder Pandita and Shri Vijay Pandita.



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ORDER

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

This is a joint application filed by Nand Kishore and others whereby they are seeking the implementation of directions given by the Hon'ble Supreme Court in Civil Writ Petition No. 323-25/1989 and Contempt Petition No. 78/94 in CWP No. 323-25/89.

2. The facts in brief are that the applicants had been earlier working under the Delhi Rural Development Agency (hereinafter referred to as 'DRDA'). The said Department is stated to have been disbanded and these applicants along with other employees were rendered jobless. Later on they had filed a Writ Petition before the Hon'ble Supreme Court for absorption and regular employment in the Departments of the Delhi Administration, on which the following directions were given:-

"16. In the circumstances, it is not possible to accede to the request of the petitioners that the respondents be directed to regularise them. The most that can be done for them is to direct the respondent Delhi Administration to keep them on a panel and if they are registered with the Employment Exchange and are qualified to be appointed on the relevant posts, given them a preference in employment whenever there occurs a vacancy in the regular posts, which direction we give hereby".

3. In pursuance of the above directions, it is stated that the respondents prepared a panel of candidates for consideration for appointments in their different Departments for Class-IV posts. Two lists consisting of 171 and 84

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candidates were prepared, which were circulated amongst the various Departments of the respondents for being considered for Class-IV posts.

4. The grievance of the applicants are that the Departments of the respondents considered the empanelled names for various appointments but besides that they had been considering people from outside the panels and had ignored the rightful claim of the aforesaid panelists. Applicants had lodged a protest, but of no avail.

5. Applicants then filed a Contempt Petition before the Hon'ble Supreme Court, on which the following directions were given:-

"The petitioners shall approach the Development Commissioner, Delhi, for such relief as they see in the matter. If the petitioners approach the Development Commissioner, Delhi, he shall look into the matter and pass order according to law within a period of six weeks from the date of receipt of the application. With this direction the application is disposed of".

6. It is admitted by the applicants themselves that various circulars were also issued by the respondents, i.e., Delhi Administration to their various Departments for consideration of the names of the persons who were empanelled. The applicants were also asked to give certain details and documents for preparing panel etc. but it is alleged that a pick and choose method is being adopted by the Department. Even the Education Department of respondent No.1 had issued appointment letters to some of the persons who are similarly placed but till date the present applicants had not been appointed nor was any reason assigned for denying the said appointment to them. As such the applicants feel that they

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are being discriminated against, in violation of Articles 14 and 16 of the Constitution and candidates from outside the panels are being appointed, but applicants themselves are not being considered. The applicants have, therefore, prayed that the respondents be directed to consider the name of the applicants who were in the panels prepared by the respondents for appointment to Class-IV posts in various Departments as per their own circulars dated 8.7.97 and 8.6.98.

7. Respondents contest the petition. The respondents admit regarding the directions given by the Hon'ble Supreme Court and also admit that a panel was prepared but after that the applicants were either overaged or illiterate and were, therefore, ineligible as per the Recruitment Rules. The respondents also state that considering the age and qualification of the applicants, they can only be considered for the posts of Chowkidar, Waterman, Mali, Bhisti, Farash, Khalasi, Sweeper in relaxation of the age limit prescribed in the Recruitment Rules (Annexure-II) and as and when direct recruitment is made to the posts mentioned above, the applicants would be given preference and considered for appointment subject to their fulfilment of conditions of the Recruitment Rules.

8. Another set of respondents have also filed a counter through Shri Rajinder Pandita, who had taken various objections regarding the maintainability of the O.A. That set of respondents have also submitted that DRDA was a Society registered under the Societies Registration Act and was not a Department of Delhi Administration nor of Central Government. DRDA was only implementing the Jawahar Rozgar Yojna which was being funded by the Central Government directly for giving him

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employment under the said Jawahar Rozgar Yojna. However, it is admitted that the Hon'ble Supreme Court of India had directed the Delhi Administration vide their judgment dated 4.2.92 to give the applicants preference in employment whenever there exists any vacancy in the regular post. It is also admitted that in compliance with the directions of the Hon'ble Supreme Court, a panel consisting of two lists of ex-daily wages casual workers was prepared and was circulated to all the Heads of Department working under Government of NCT of Delhi and some of the candidates who were empanelled in that lists, were also given employment. This set of respondents have also taken a plea that the applicants were duly considered but such of them who were over-aged and illiterate could not be given the appointments. It is, therefore, stated that since the applicants have already been considered and had not been found fit because they are overaged and illiterate, they cannot be appointed.

9. We have heard the learned counsel for the parties and have gone through the records.

10. The main contention of the learned counsel for the applicants is that despite the directions given by the Hon'ble Supreme Court, the applicants have not been considered for appointments, and fresh people from outside the panel were given appointments where the applicants could have been adjusted. It is contended that as vacancies in Class-IV category do occur from time to time in the various Departments of the Delhi Administration and appointments are being made by the respondents in their departments from outside the panel, the same is in violation of the directions given by the Hon'ble Supreme Court.

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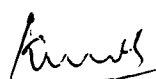
11. A perusal of the grounds taken up by the applicants for the purpose of implementation of the orders/directions given by the Hon'ble Supreme Court in C.W.P.No.323-25/1989 and as well as C.P.No.78/94 shows that the applicants are aggrieved of the manner in which the order is being implemented.

12. Since this OA has been filed only to implement the directions given by the Hon'ble Supreme Court, the objections taken by the respondents about the non-maintainability of the OA has no merits.


13. In view of the above circumstances, the only directions which can be given in this OA is to call upon respondents to take appropriate steps to ensure that the directions given by the Hon'ble Supreme Court are complied with in letter and spirit and the persons who had been taken on the panel are duly considered by respondents for appointment against Class-IV vacancies subject to their eligibility as and when such vacancies occur, as per rules and instructions on the subject.

14. The above directions should be complied with as expeditiously as possible.

15. With the above directions, the O.A., C.P. and MAs are disposed of but without any order as to costs.


(Kuldip Singh)
Member(J)

/Rakesh/


(S.R. Adige)
Vice Chairman(A)