

Central Administrative Tribunal
Principal Bench: New Delhi

O .A. No. 1682/99

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New Delhi this the 17th Day of May 2001

Hon'ble Shri S.R. Adige, Vice Chairman (A)
Hon'ble Dr.A.Vedavalli, Member (J)

1. Vinod Garg,
S/o Shri Laxman Das,
Qr.No.KLP Type III/12,
Hindon Air Force, Ghaziabad.
2. A.S. Grewal,
S/o Shri Harichand Grewal,
A-8, New Multan Nagar,
Delhi-110 056.
3. Ram Chander,
S/o Shri Chandan Singh,
16 Bankner, Delhi-110, 040.
4. Rajesh Kumar
S/o Shri H.P. Yadav,
26-H, Sector-4,
DIZ Area, Gole Market,
New Delhi-110 001.

Applicants

(By Advocate: Shri A.K.Behra)

Versus

1. Union of India through
The Secretary,
Ministry of Urban Affairs,
Nirman Bhawan, New Delhi-110 011.
2. Director General (Works),
Central Public Works Department,
Nirman Bhawan, New Delhi.
3. Chief Engineer (Training),
CPWD, Nirman Bhawan,
New Delhi.
4. Kamal Kishore Joshi (Applicant in OA No. 2239/98)
99/3, New Moti Bagh, New Delhi.
5. Sudama Prasad Sharma, (Applicant in OA No.2526/98)
15/283, Lodi Colony, New Delhi.
6. Gukrinder Singh,
I-7A, Ganga Ram Vatika
TilakNagar, New Delhi.
7. Lal Chand,
Qr. No. 4, PWD Service Centre,
Gulabi Bagh, Delhi-110 007.
8. R.C. Srivastava,
MB-117, Mahabir Block,
Shakarpur, Delhi-110 092.

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9. Ravinder Kumar Narula,
Sector 16/214 Vasundhara Colony,
Link Road, Ghaziabad-201010.
10. Umesh Chandra,
B-31A, Jagatpuri Gali No. 2,
Delhi.
11. V.K. Gupta,
32/52, III Floor,
West Patel Nagar, Delhi-110 008.
12. Preetpal Singh,
JE/PWD, Circle VI,
MSO Bldg, I.P.Estate, New Delhi.
13. Anil Kumar Srivastava,
JE/PWD, XVII, Circle VI,
MSO Building, I.P.Estate,
New Delhi.
14. P.S. Chauhan,
JE/PWD, XVII,
Malviya Nagar, New Delhi.
15. A.K. Gandhi,
JH/Q-Division, CPWD,
East Block-1, Level-4,
R.K.Puram, New Delhi.

(By Advocate: Shri A.K. Bharadwaj, for Official
Respondents

Shri VSR Krishna, for Private Respondents
No. 12 to 15.

Shri V.K. Jain, for Private respondents
No. 5 & 6.

O R D E R (Oral)

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

Applicants seek a declaration that the observations/instructions contained in CAT, PB joint order dated 15.2.1999 in OA's Nos. 2239/98 and No. 2526/98, (while dismissing both the OAs on merits) to segregate vacancies as well as eligibility yearwise, while respondents fill up vacancies of AE for the period 1.4.1993 to 31.3.1999 through Limited Departmental Competitive Examination 1999, are without jurisdiction/ in the nature of obiter dicta, and are not binding in

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law, and on that basis to direct official respondents to appoint candidates in LDCE 1999 on the basis of their rank in the said exam without any segregation of vacancies, with all consequential benefits.

2. On behalf of applicants, Shri A.K. Behra appeared, while on behalf of official respondents Shri A.K. Bharadwaj appeared. On behalf of those private respondents who were original applicants in OA No. 2239/98 and OA No. 2526/98, Shri V.K. Jain appeared. Shri VSR Krishna appeared on behalf of subsequently impleaded respondents 12 to 15.

3. After hearing both sides and giving careful thought to the matter, we are of the considered view that the relief in the form in which it has been prayed for in the present OA, cannot be granted by this Bench in as much as a Coordinate Division Bench of the Tribunal cannot legally declare that any portion of an order of another Coordinate Bench of the Tribunal, is without jurisdiction/in the nature of obiter dicta, and is not binding in law. Such a finding can be returned only by a superior Court of law, but certainly not by a bench exercising Coordinate jurisdiction.

4. In this connection we are informed that the applicants whose OA's were dismissed by order dated 15.2.1999 have themselves challenged that order in Delhi High Court through WP 3519/99 on which notices have been issued and the matter is coming up very shortly.

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5. We further note that the applicants in the present OA had also filed CWP No. 4143/99 in regard to the same matter in Delhi High Court, which alongwith CM's 8068-69/99, was disposed of with the following order dated 15.7.1999

"Counsel for the petitioner states that he was not impleaded as a party when the impugned order was passed by the Central Administrative Tribunal. That pursuance to the directions given by the Tribunal, fresh cause of action has arisen in favour of the petitioners. There is an apprehension that the respondents are going to reduce the vacancies out of 39 vacancies for the DPC.

Since fresh cause of action has arisen in favour of the petitioner, the better course for the petitioner would be of approach the Central Administrative Tribunal. Counsel for the petitioner says that he may be permitted to withdraw this petition with liberty to approach the Central Administrative Tribunal.

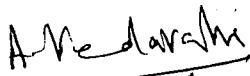
Liberty granted.

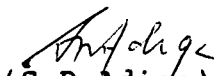
Dismissed as withdrawn."

6. However, as stated in para 3 above, after hearing both sides, it is our considered view that we as a Coordinate Bench of the Tribunal, cannot legally declare any order of another Coordinate Bench of the Tribunal containing certain observations/instructions, which meanwhile have been acted upon by official respondents, as being without jurisdiction/in the nature of obiter dicta and not binding in law. Such a declaration can be given only by a superior Court of law.

7. In this connection we are further informed that other adversely affected by the Tribunal's joint order dated 15.2.1999 dismissing OAs No. 2239/98 and No. 2526/98 have got themselves impleaded in WP No. 3519/99 before Delhi High Court. It will be open to the present applicants also to pursue such remedies as are available to them in accordance with law.

8. The present OA is, therefore, dismissed. No costs.


(Dr. A. Vedavalli)
Member (J)


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

Mittal