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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

CP No.231/2002 in OA No.1923/1999

New Delhi, this the 2nd day of July, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri S.K. Naik, Member(A)

1. All India CPWD(MRM) Karamchari Sangathan
(Regd.) through its President
Shri Satish Kumar
34-D, DIZ Area, Sector 4, Raja Bazar
New Delhi
2. Karamjit)
3. Anand Raj) All workin as Motor
4. Vijay Chand) Lorry Drivers
5. Anil Kumar) c/o Applicant No.1
6. Gurdip Singh)
7. Surinder Singh) .. Petitioners

(Shri Naresh Kaushik, Advocate)

versus

1. Shri K. Kosal Ram
Secretary
Ministry of Urban Affairs & Employment
Nirman Bhavan, New Delhi
2. Shri Krishan Kumar
Director General (Works)
CPWD, Nirman Bhavan, New Delhi
3. N. Shankaran
Secretary
Ministry of Urban Affairs & Employment
Nirman Bhavan, New Delhi
4. J.N. Bhawsani Prasad
Director General(W)
CPWD, Nirman Bhavan, New Delhi .. Respondents

(Shri D.S. Mehandru, Advocate)

ORDER(oral)

Shri S.K. Naik

In the matter concerning regularisation of muster roll employees working as Motor Lorry Drivers in CPWD, this Tribunal has disposed of the OA No.1923/1999 on 28.3.2001 with the the following directions:

1. The respondents to verify from their records the number of vacant posts in the category of employees to which applicants 2-7 belong i.e. Motor Lorry Driver
2. After verification of the necessary particulars pertaining to the applicants, they should consider regularisation of their services against the vacant posts, subject to their suitability and fulfilment of the terms and

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conditions as laid down in the RRs. Taking into account the facts and circumstances of the case, particularly that the respondents themselves have not denied the fact that they have continued the applicants as Muster Roll employees for much more than a decade, they shall if necessary grant age relaxation as provided under the Rules.

3. Learned proxy counsel for the applicants states that the applicants will submit the particulars and necessary applications for the above purpose to the respondents."

2. It is evident from the above that no time limit was fixed for completion of the procedure obviously for the reason that necessary particulars pertaining to the applicants were required to be obtained and the number of vacancies had to be determined. Aggrieved by the delay in implementing the directions of the Tribunal, petitioners have filed this CP No.231/2002 against the respondents.

3. Before us, the counsel for the petitioners has contended that the respondents were not taking up the matter intentionally with a view to denying the benefit which has accrued in favour of the petitioners because no time limit has been fixed for implementation of the directions of the Tribunal.

4. The counsel for the respondents, on the other hand, has refuted the contention of the learned counsel for petitioners and has stated that respondents in fact have already complied with the directions of the Tribunal inasmuch as DPC has already been held on 23.1.2002 after obtaining records pertaining to the applicants from each Division. According to him, eligibility of all the applicants for regularisation was considered by the DPC and the outcome thereof has been communicated through a speaking order. Thus, there has been proper application

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of mind as it be seen from the fact that three of the petitioners were not found fit for regularisation for the post of Motor Lorry Driver as they do not fulfil the qualifications as required under the provisions of Recruitment Rules. With regard to the other three petitioners, the department has found it difficult to regularise their services due to the existing ban on recruitment under the direct quota and also because of non-availability of vacancies. Respondents however have not closed their case - in that they have stated in their OM dated 23.7.2002 that regularisation of the three petitioners would be done as and when the ban on direct recruitment is lifted by the Ministry of Finance subject to the availability of vacancies.

5. We have considered the arguments advanced before us by both the sides. The contention of the learned counsel for petitioners that the respondents are intentionally delaying regularisation of the services of petitioners to defeat the benefit due to them just because no time limit has been fixed for compliance, to our mind, is not correct. This is apparent from the fact that the respondents have considered their case to comply with the directions of the Tribunal vide its order dated 28.3.2001 in OA 1923/1999. A DPC has been held on 23.1.2002 to consider their eligibility. In the DPC held by the department, three applicants namely S/Shri Vijay Chand, Anil Kumar and Surinder Singh were not found fit for regularisation for the post of MLD as they do not fulfil the qualification as required under the provision of Recruitment Rules. The other three applicants namely S/Shri Gurdip Singh, Karamjit and Anand Raj too have been considered but in their case it has been held by the department that their services could not be regularised


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as of now due to existing ban on recruitment under direct quota and also for non-availability of the vacancies. In their OM dated 23.7.2003 they have stated that regularisation of these applicants would be done as and when the ban is lifted subject to availability of vacancies.

6. The action taken by the department has to be seen in the context of the order passed by the Tribunal in which it has clearly been stated that the respondents were to verify from their records the number of vacant posts and thereafter consider the case of the applicants for regularisation, subject to their suitability and fulfilment of the terms and conditions as laid down in the Recruitment Rules. This, in our view, has been substantially complied with by the respondents as enumerated above.

7. We are also supported in this matter by the judgement of the Hon'ble Supreme Court in Chhotu Ram Vs. Urvashi Gulati (2001)7 SCC in which while considering a somewhat similar case pertaining to promotion it was held that "petitioner having been duly considered by the respondents for promotion was not found fit and hence under such circumstances denial of promotion by the respondents would not constitute an act of contempt of court".

8. In view of the aforesaid, CP fails and is accordingly dismissed. Notices discharged.


(S.K. Naik)
Member(A)


(V.S. Aggarwal)
Chairman

/gtv/