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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 1350/98

Hon'ble Mr. Justice K.M. Agarwal, Chairman
Hon'ble Mr. R.K. Ahooja, Member (A)

New Delhi, this the 5th Day of August, 1998

1. Shri Sheo-Prasad,
S/o Shri Dasrath Ram
Working as Driving Instructor,
Transport Department, Delhi
R/o Harijan Basti,
Karawal Nagar, Delhi
2. Shri Jai Bhagwan,
S/o Shri Ram Saran,
Working as Driving Instructor,
Transport Department, Delhi
R/o Gali No. 3 Block No. 4,
Sadatpur Extension Shahadara,
Delhi.
3. Shri Dinesh Kumar,
S/o Shri D.C. Jagoria,
working as Driving Instructor,
Transport Department, Delhi
R/o 5573/75 Raigarpura,
Karol Bagh, New Delhi.
4. Shri Hem Raj,
S/o Shri Gurdas Ram,
Working as Driving Instructor,
Transport Department, Delhi.
R/o B-34 Hari Nagar,
Delhi.
5. Shri Mahidher Prasad,
S/o Shri Ghanshyam Dass,
Working as Driving Instructor,
Transport Department, Delhi
R/o Flat No. 1828, Janta Flat,
Nand Nagri, Delhi.
6. Shri Rakesh Kumar,
S/o Shri Raj Pal Singh,
Working as Driving Instructor,
Transport Department, Delhi
R/o A-27/2, Devli Extension,
New Delhi.

Petitioners

(By Advocate: Anis Suhrawardy)

-Versus-

1. Chief Secretary, (Services)
National Capital Territory of Delhi
5 Sham Nath Marg,
Delhi.
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2. The Commissioner-cum-Secretary, Transport,
5/9 Under Hill Road,
Delhi. Respondents

ORDER

Hon'ble Shri R.K. Ahooja, Member (A)

We have heard Shri Anis Suhrawardy, learned
applicants
counsel for the application, on admission.

2. The applicants who are working as Driving Instructors in the Transport Department of NCT of Delhi, claim promotion to the post of Motor Vehicle Inspectors which they alleged has been denied to them by the respondents.

3. It is an admitted position that as per the existing recruitment rules, the applicants are not eligible for such promotion. The case of the applicants is that due to lack of promotional avenues, they have been representing to the respondents and a decision was taken in the Transport Department that Recruitment Rules will be suitably amended for the post of Motor Vehicle Inspector to provide promotional avenues to the applicants. They claim that the said amendment has been approved by the competent authority for necessary Gazette Notification but the same is not being issued only in order to deprive the applicants of their legitimate claim.

4. Shri Suhrawardy has drawn our attention to the order of this Tribunal in OA No. 668/86 and related OAs which were decided on 3.10.1997. In the aforesaid case challenge was made to the proposed direct recruitment to the post of Motor Vehicle Inspectors. In OA No. 2152/96 the Driving Instructors had claimed that

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they have the qualification for appointment as Motor Vehicle Inspectors. However it was found that the Driving Inspectors would have the necessary qualification only when amendment to recruitment rules had been carried out. Noting that such an amendment was still to be notified, the Tribunal observed as follows:

"We find that the proposal to make the post of Driving Instructors as feeder cadre for promotion to MVI was sent to Service Department. The said proposal was approved. But before finalisation it was sent to one-man committee (Bansal Committee) which was to find out the disparities and anomalies before submitting the same to the competent authority. That report is still awaited. As per the respondents, DIS could not be called as a feeder cadre until the amendment in R/Rules for MVI are carried out and notified. In view of the above position, applicants' contention that the process for selection for posts of MVIs be kept in abeyance till amendment takes place cannot be accepted. The wheels of administration cannot be allowed to come to a grinding halt on the plea that some amendments are in the offing. We do not know if the proposal would ultimately get the approval of competent authority. All that can be done in such a case is to direct the respondents to take a decision in the matter at the earliest. In the circumstances, the plea of the applicants to keep the selection process "on hold" cannot be accepted."

5. Shri Surhawardy submitted that despite this observation of the Tribunal, the Respondents have failed to notify the amendment recruitment rules.

6. We find that the applicant has sought a direction to the respondents to promote the applicants as Motor Vehicle Inspector. Obviously, as already observed by the Tribunal in OA No. 668/96 reproduced above, no such direction can be given in the absence of an amendment of recruitment rules. The applicant has sought to establish by producing a copy of the internal secretariat noting that the proposal for amendment of the recruitment rules has met with the approval of the authorities but for the requisite notification the

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amendment would have been already been in force.
Internal discussion in Government files cannot be a substitute for a notification. It is open to the Government to change its views about the desirability of an amendment in the recruitment rules and no direction can be given to the respondents in a matter of Executive Policy.

7. Since we find that no relief can be given as sought for by the applicants, it would be fruitless to proceed further with the application. Accordingly, the OA is dismissed at the admission stage itself.

Km
(K.M. Agarwal)
Chairman

R.K. Ahooja
(R.K. Ahooja)
Member(A)

Mittal