

Central Administrative Tribunal
Principal Bench

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O.A. 985/98

and

O.A. 746/98

New Delhi this the 29 th day of July, 1998

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

Shri Raj Bir Singh,
30, Sanjay Colony,
Narela, Delhi-110 040.

Applicant.

By Advocate Shri Manoj Chatterjee.

Versus

1. Union of India, through
Secretary,
Department of Personnel & Training,
North Block, Central Secretariat,
New Delhi-110 001.
2. The Director,
CBI, Block 3, CGO Complex,
Lodhi Road, New Delhi-110 003.
3. Superintendent of Police,
CBI., SIC III/SIU IX.
New Delhi.
4. Director General of Police,
ITBP,
CGO Complex, Lodhi Road,
New Delhi.
5. Shri K.B. Chetry,
Constable. SIC-II
6. Shri Heera Singh Negi,
Constable, SIC-II.
7. Shri Umed Singh,
Constable. SIC-II.
8. Shri Naresh Kuma,
Constable, SIC-II,
9. Shri Kartar Singh,
Constable, SIC-II,
10. Shri P.P. Thomas,
Constable, SIC-II.
11. Shri Kushpal,
Constable, SIC-II,
12. Shri Chander Pal,
Constable, SIC-II.

.... Respondents.

(Service of respondents Nos. 5 to 12 to be effected through Respondent No. 3).
By Advocate Shri Rajeev Bansal.

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O.A. 746/98

Shri A.K. Fauzdar,
52-R/CBI Colony,
Vasant Vihar,
New Delhi-110 057.

.... Applicant.

By advocate Shri Manoj Chatterjee.

Versus

1. Union of India, through
Secretary,
Department of Personnel & Training,
North Block, Central Secretariat,
New Delhi-110 001.
2. The Director,
CBI., Block 3, CGO Complex,
Lodhi Road,
New Delhi.
3. Superintendent of Police,
CBI., SIC II/SIU V,
New Delhi.
4. Director General of Police,
CRPF, CGO Complex,
Lodhi Road,
New Delhi.
5. Shri K.B. Chetry,
Constable.
6. Shri Heera Singh Negi,
Constable,
7. Shri Umed Singh,
Constable.
8. Shri Naresh Kuma,
Constable,
9. Shri Kartar Singh,
Constable,
10. Shri P.P. Thomas,
Constable,
11. Shri Kushpal,
Constable,
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O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J). (10)

In the aforesaid 2 O. As the applicants who are deputationists to CBI, are aggrieved by the respondents' order dated 19.3.1998 wherein 8 other constables who had joined CBI before 30.12.1990 and had completed their prescribed tenure of deputation in CBI were found fit for absorption in which their names did not figure. As the issues involved in O.A.985/98 and O.A. 746/98 are similar, these two applications have been heard together but for the reasons given below they are being disposed by separate orders.

2. The common question raised in these two applications is whether the applicants who are admittedly on deputation with CBI from Indo Tibet Border Police (ITBP) and Central Reserve Police Force (CRPF) respectively, have a right for absorption/regularisation of their services with CBI. Shri Manoj Chatterjee, learned counsel, has submitted that in the cases of these two applicants, during their overstay with the CBI after the normal tenure of deputation of five years was over, in spite of their parent departments requesting the constables to go back so that they can undergo certain specialised courses/ training to earn eligibility for promotion in their parent departments, the CBI had refused to spare them on a number of occasions. He has further emphasised that not only the applicants were not spared by the CBI for undergoing training courses but their cases had also been strongly recommended by the Senior Officers like DIG of Police, CBI for permanent absorption in their organisation. He has submitted that the recommendation for absorption given by the CBI on a number of occasions has been done because of the merit and nature of duties that the applicants were performing in the CBI.

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He has submitted that the respondents having recommended the applicants for absorption, cannot later on refuse such absorption because they are estopped by their own conduct in doing so and on the basis of "legitimate expectation". They have submitted that by the action of the respondents, the applicants have been deprived of attending courses which thereby deprives them of the chances of promotions in their parent cadre and they cannot be expected to work under juniors on repatriation in their parent cadre. The learned counsel relies on State of Punjab and Ors. Vs. Inder Singh & Ors. (1997(8) SCC 372), Dr. Ashok Kumar Maheshwari Vs. State of U.P. & Anr. (1998(1) Scale 424), and Balkishan Vs. Delhi Administration and Anr. (AIR 1990 SC 100).

3. The respondents have admittedly issued certain guidelines on 20.8.1997 regarding absorption of Constables/Head Constables in CBI who are on deputation, subject to fulfilment of certain qualifications. The learned counsel for the applicants has vehemently submitted that the applicants in both the aforesaid OAs fulfil the prescribed qualifications but their request for absorption has been turned down in an arbitrary and unreasonable manner which is against the provisions of law. He has also submitted that since other similar deputationists have been absorbed, the respondents cannot take advantage of their own wrong by repatriating the applicants to their departments without any valid reasons.

4. In the case of applicant Shri Rajbir Singh in O.A.985/98, the learned counsel for the applicants has submitted that in spite of several recommendations given by a number of officers of CBI recommending his case for absorption, admittedly when the Committee met for considering the cases of absorption of Head Constables/Constables on 11.3.1998, his case had not

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been forwarded for its consideration. Admittedly, in the case of applicant Constable Rajbir Singh, the Joint Director, CBI had recommended his case to the Deputy Director (Administration), CBI in his letter dated 1.4.1998, i.e. after the Committee had met to consider the cases of Constables/Headconstables for absorption who were on deputation with them for a number of years in accordance with the guidelines framed by them dated 28.7.1997. This, however, is not the position in the case of the other applicant, Shri A.K. Fauzdar in O.A.746/98 who was considered by the Committee. The respondents have submitted that after due consideration the Committee had not found the latter suitable for absorption in CBI.

5. Another argument advanced by Shri Chatterjee, learned counsel for the applicants, is that the Committee which has been constituted by the CBI consisting of one DIG and two Superintendents, CBI, was not competent to consider the cases of the applicants for absorption in CBI because the recommendations for their absorption have been made by superior officers, for example, the Joint Director and DIG Police in the case of applicant Constable Shri Rajbir Singh.

6. We have carefully considered the pleadings and the submissions of the learned counsel for the ~~parties, & applicants~~.

7. There is no doubt that both the applicants who are deputationists from other services have been strongly recommended by ~~the~~ senior officers in CBI for absorption in their organisation. While the recommendations were duly considered by the Committee constituted for this purpose in the case of applicant Shri Fauzdar, they could not be considered in the case of the other applicant Shri Rajbir Singh. The reason why Shri Rajbir Singh's case could not be considered by the

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Committee is that while the Committee had met on 11.3.1998, his recommendations were admittedly delayed and were sent subsequently on 1.4.1998. To this extent, the decision of the Tribunal in Mahavir Singh Vs. Union of India & Ors. (OA 440/98) (copy placed on record) is applicable. In that case the respondents were directed to consider the case of the applicant and the applicant in the present case is also entitled to a similar direction.

8. In the case of applicant Shri Faujdar, since his case for absorption has already been considered by the Committee in accordance with the guidelines laid down by the CBI in September, 1997, we do not think that he will be entitled to any further consideration merely on the ground that his case had been recommended for absorption earlier. Any expectation he had for absorption in the CBI has to be reconciled with the principles of settled law that deputationists have no right for absorption (See Union of India and Anr. Vs. Mathura Dutt and Ors. (Delhi High Court in CWP No. 1721/97 dated 30.5.1997, copy placed on record). However, the applicants have a right for consideration for absorption in a manner which is reasonable and in accordance with the rules and instructions, which in this case is the Guidelines of 28.7.1997 prepared by the respondents.

9. In this connection, we are also not impressed by the arguments advanced by Shri Manoj Chatterjee, learned counsel, that because the Committee constituted for this purpose consisted of officers who were junior to those who had recommended the applicants for absorption in CBI its deliberations and recommendation are vitiated. On the other hand, the decision of the Committee which has independently considered a number of recommendations for absorption of Head Constables/Constables in CBI, including from their own senior

officers and come to their own conclusion on the merits of each case cannot be considered to be arbitrary or illegal. On the contrary, the fact that the Committee members have not automatically agreed with the recommendations of their senior officers, if any, shows that they have independently and fairly considered these recommendations in the light of the Guidelines prescribed for this purpose. The constitution of the Committee in accordance with Para 5 of the Guidelines is, therefore, neither arbitrary nor illegal which justifies any interference on this account.

10. The learned counsel for the respondents has submitted that the applicant Shri Rajbir Singh does not fulfil the qualifications for being considered for absorption in CBI. This was stoutly contested by Shri Manoj Chatterji, learned counsel. He submits that the applicant is not only a Motor Cycle Rider with two years accident free service but also possesses valid licenses for Light and Heavy Motor Vehicles and has referred to a number of recommendations, placed in file, in which it has been stated that his services have also been utilised as a Staff Car Driver in CBI. This should be considered by the Committee. We have also considered the other arguments advanced by the learned counsel for the applicants but find no merit in the same, except as regards what is set out below in respect of applicant Shri Rajbir Singh in O.A. 985/98.

ORDER

11. In the facts and circumstances of the case in O.A. 985/98, this application is allowed with a direction to the respondents to consider the applicant's case for permanent absorption in CBI in accordance with the relevant Guidelines

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and pass a detailed, speaking and reasoned order in case his request for such absorption is rejected. This shall be done within one month of the receipt of a copy of this order.

12. In O.A. 746/98, as the applicant has already been considered by the duly constituted Committee for permanent absorption in CBI in accordance with the relevant Guidelines, the application fails and is accordingly dismissed.

No order as to costs.

(Smt. Lakshmi Swaminathan)
Member (J)

SRD

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

Bimla Devi

CL
Court
Section Officer
Central ~~Section Officer~~ Tribunal
Central Administrative Tribunal
Principal Branch, New Delhi