

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.2401 of 1995

Hon'ble Shri A.V.Haridasan, Vice-Chairman(J)
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this 1/ day of ^{April} ~~March~~, 1996

1. Urban Basic Service Employees
Association (Department of Urban
Development), Government of N.C.T. of Delhi
through its General Secretary,
Shri Aas Mohammed, 42, Village
Hauz Khas, NEW DELHI - 110 016.
2. Shri Raj Kumar
s/o Shri Raghu Nath Singh
r/o 51, Nithan Village,
P.O. Nangloi
DELHI - 110 041.
3. Shri Shashi Mohan Sharma
s/o Shri K.D.Sharma
r/o House No.703/10
Vijay Park
Delhi - 110 053. ... Applicants

Versus

1. Lt. Governor
Govt. of N.C.T. of Delhi
Raj Niwas
DELHI - 110 054.
2. Govt. of N.C.T. of Delhi
through its Chief Secretary
5, Shyam Nath Marg
DELHI - 110 054.
3. Inspector General of Prisons
Central Jail
Tihar
DELHI. ... Respondents.

O R D E R

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

The applicants in this case are ^{Area Volunteers} ~~Employees~~

in the Department of Urban Development under the

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N.C.T. of Delhi. They have been working in that capacity since April, 1989. The respondents had taken a decision to terminate the services of the area volunteers. Thereafter as a result of an OA filed (OA No.3400/92) before this Tribunal, directions were given to the respondents to absorb them in various departments ^{where} had also issued a circular dated 1.2.1993 requiring their absorption in preference to outsiders through direct recruitment (Annexure A-2). The grievance of the applicants, in the present case, is that despite these orders and instructions, the respondents are not considering their cases for absorption against the post of Assistant Superintendent of Central Jail. They have filed the present application seeking directions to the respondents that these posts of Assistant Superintendent should not be filled through direct recruitment from the open market and the respondents should first consider the applicants.

2. The respondents while admitting that instructions were issued for consideration and absorption of the applicants in posts under them, denied the claim of the applicants on the ground that the said provisions had been made only in respect of posts in Grade - III and IV of the Delhi Administration Subordinate Services Cadre (DASS Cadre) and since the post of the Assistant Superintendent of Central Jail is a Grade-II post of DASS Cadre, the Circular dated 1.2.1993 does not apply and hence the applicants are not entitled to be considered for absorption in the post in question.

3. We have heard the learned counsel for both sides and have also gone through the records of the case. It is

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agreed on both sides that there is a decision to give preference to the applicants for absorption under posts under the Delhi Administration in their circular dated January, 1988. The dispute is therefore limited to the question as to whether the posts of Assistant Superintendent of Central Jail came within the purview of the above mentioned circular or not. For this purpose it would be ~~pass~~ useful to reproduce the relevant provisions of the Circular as below:

"4. Direct recruitment, where permissible, may be made in the following manner:-

- i) By absorbing surplus staff of DSMDC and DRDA. The terms and conditions of absorption in respect of this category of staff will be governed by the Govt. of India rules for re-deployment of surplus staff.
- ii) In case no surplus staff of DRDA and DSMDC are available for filling up the posts, the Area Volunteers of Urban Basic Services may be considered for filling up Grade-III and IV posts or equivalent, if found suitable. For the Area Volunteers, there will be no relaxation in qualifications or experience but relaxation in age could be considered in individual cases, if they are found otherwise suitable for the jobs.
- iii) Only after exhausting the two options mentioned above should the department proceed further with the recruitment to the posts in the normal fashion. While doing so, the retrenched employees of 1991 Census employed through the Employment Exchange may also be considered in accordance with the instructions issued vide Circular No.F.3/40/92-S.II dated 18.1.93".

4. The learned counsel for the applicant argued that there is no indication that the reference to the Grade-III & IV posts in the Circular is in the context of the Delhi Administration Subordinate Service Cadre and therefore, it has to be understood in the normal classification of Grade-III & IV posts which are now classified as Group 'C' & 'D' posts. Group 'C' covers Central Civil posts carrying the

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Pay-scale of minimum of Rs.1150-2900 as per DoPT ^(B) Notification dated 30.6.1987 and 7.7.1987. Since the post of the Assistant Superintendent, Central Jail carries a Pay-scale of Rs.1400-2300 it falls within the classification of Group 'C' or Grade-III and hence the above cited Circular dated 1.2.1993 squarely applies to this post. As regards the contention of the Counsel for the respondents that the matter had been ~~further~~ further clarified also in the order dated 27.10.1995 (ANNEXURE R-I), he pointed out that the same had been issued after the Circular was issued for filling up of the posts of Assistant Superintendent, Central Jail and in any case a number of persons from amongst area volunteers had been appointed to posts carrying the pay-scale of Rs.1400-2900, i.e. such as Teachers, Sub-Inspectors of Police, Assistant Welfare Officers in the Department of Welfare.

5. The learned counsel for the respondents on the other hand submitted that the posts in question are part of the DASS Cadre and therefore the grades are naturally be understood in the context of the cadre to which the posts belong. Further more, he pointed out that if the intention were to include all the posts in Group 'C' then the same would have been specified and instead of Grade-III or IV, the order would have stated Group 'C' or Group 'B'.

6. We have carefully considered the arguments advanced on both sides, and find that the applicants

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have a valid case. Firstly, the respondents if ⁽⁹⁾ they intended that the posts were to be confirmed to certain grades in the DASS Cadre, should have clearly indicated the same in the order of February 1993. Secondly, since appointment of Area Volunteers have been made to the grades higher than the Grade-III of the DASS Cadre, the respondents themselves have understood the orders of 1993 to refer to Group 'C'. It is also significant that ^{otherwise} there would have been no need for issuing the clarification dated 27.10.95. Hence the amended order of 27.10.1995 could not be applied to the posts which were circulated earlier as was the case in respect of posts of Assistant Superintendent, Central Jail.

7. In the light of the above discussion, we conclude that the applicants are entitled to the benefit of the order dated 1.2.1993 for consideration for the post of Assistant Superintendent, Central Jail circulated by the Office of Inspector ~~of~~ General ^{Prisoners} circulated vide his letter dated 24.10.1995. The respondents are directed to fill the said posts first considering the applicants for absorption in terms of the letter dated 1.2.1993. There shall be no order as to costs.


(R.K. AHOOJA)
MEMBER(A)

/RAO/


(A.V. HARI DASAN)
VICE-CHAIRMAN(J)