

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A.NO.1105/95

Hon'ble Shri Justice B.C.Saksena, Vice-Chairman(J)
Hon'ble Shri R.K.Ahooja, Member (A)

New Delhi, this 27th day of February, 1996

1. Mahender Singh
s/o Shri Asha Ram
R/o WZ - 37, Village Palam
New Delhi - 110 045.
2. Braham Prakash
s/o Shri Ramji Lal
r/o WZ - 66, Shadi Pur
New Delhi.
3. Sukhbir Singh
r/o H. No.88
Mochi Bagh, Nanak Pura
New Delhi.
4. Vijay Singh
s/o Shri Chandi Singh
r/o RZ 61, Raghbir Nagar Block
Prem Nagar, Papravat Road
Najafgarh, New Delhi.

5. Gajender Singh
s/o Shri Lakhpati Singh
r/o 589/6A Govind Puri
Kalkaji
Delhi. ... Applicants
(Shri B.T.Kaul with Shri Rajesh Kumar Kadian, Advocate)

Versus

Union of India through:

1. Secretary
Ministry of Home Affairs
Govt. of India
North Block
New Delhi.
2. Intelligence Bureau
Ministry of Home Affairs
Govt. of India
East Block VII-VIII, R.K.Puram
New Delhi. ... Respondents
(By Shri Madhav Panikar, Advocate)

O R D E R

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

The applicant in this case, 5 in number, were engaged as Motor Transport Drivers with the Respondent No.2 from various dates between 1986 and 1988. They claim that they have since been discharging their duties to the entire

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satisfaction of the respondents, but respondent No.2 instead of regularising their services, have issued the impugned advertisement for direct recruitment of Junior Intelligence Officers (MT) which is likely to result in their retrenchment. The applicants are aggrieved that the aforesaid action has been taken by the respondents ignoring their blemishless services for long periods of 7 to 9 years and their action is thus malafide and arbitrary.

2. The respondents contest the claim of the applicant and submit that the applicants were engaged on a 'no work no wage' basis and their services were utilized according to the exigencies of Government work. They further submit that they are unable to consider the applicants for regularisation since they do not fulfil the essential conditions prescribed in the recruitment rules in respect of education and age limit:

3. We have heard the learned counsel on both sides. Learned counsel for the applicant argued that the recruitment rules for the post of Junior Intelligence Officers (MT) were promulgated in 1984 and hence the applicants who were recruited, between 1986 and 1988, were taken in service by the Respondents, in full knowledge of their deficiency in educational qualification, viz., Matriculation and the Respondents had thus, in effect, relaxed the educational qualification. He also referred to the rejoinder filed by the applicants in which names of a number of similarly placed casual workers have been cited who did not possess the necessary educational qualification but were nevertheless regularised and who are still working in the organisation with the respondent No.2. The learned counsel also pointed out that the applicants having worked for such a long period with the respondent No.2, had now become over age for consideration. As regards the stand of the respondents that they were helpless in the matter since the applicants did not

possess the necessary educational qualification, the learned counsel referred to the case of the Supreme Court in Bhagwati Prasad Vs. Delhi State Mineral Development Corporation (AIR 1990 SC 371). He also referred to the order of this Tribunal in OA No.1446/91 (Shri P.C.Rain and another Vs. Union of India & others), in which the applicants were similarly placed and the case was disposed with the direction that the applicants be allowed to continue for a further period of two years and if they obtain the requisite educational qualification then they be considered for regularisation, on the availability of vacancies, along with others. The learned counsel also submitted that the selections had already been completed and there was an imminent threat facing the applicants ~~in the face~~ regarding their retrenchment.

4. The learned counsel for the respondents on the other hand, cited the orders of the Tribunal in OA No.1380/91 (Harinder Vs., UOI) in which the applicant lacking the minimum educational qualification was not given any relief and his application was summarily dismissed.

5. We have considered the submissions of the learned counsel on both sides. The applicants had filed ^a Miscellaneous Application by way of Interim Relief to stop the selection process as a consequence of the impugned advertisement. The same was however, not granted as per orders dated 10.7.1994. The learned counsel for the respondents, Shri Madhav Panikar submitted before us that the selection process had been completed and appointments were being made. In these circumstances, when the selected candidates are not before us, no relief can be granted to the applicants which would affect the persons selected as a result of the impugned advertisement.

6. The question is whether the applicants are entitled to any other relief. We find that applicants served with

respondent No.2 for a period of 7 to 9 year. It is true that they do not have the necessary educational qualification. However, as has been observed by the Hon'ble Supreme Court in Bhagavati Prasad Vs. Delhi State Mineral Development Corporation (AIR 1990 Vol.77 P-371), "Practical experience would always aid the person to effectively discharge the duties and is a sure guide to assess the suitability". The Hon'ble Supreme Court also observed in that case that "Once the appointments were made as daily rated workers and they were allowed to work for a considerable length of time, it would be hard and harsh to deny them the confirmation in the respective posts on the ground that they lack the prescribed educational qualifications. In our view, three years experience, ignoring artificial break in service for short period periods created by the respondent in the circumstances, would be sufficient for confirmation."

7. In the present case the experience of the applicants is more than 7 years. They are, therefore, entitled, in view of the ratio of the above cited case, to be considered for regularisation in relaxation of their age and educational qualifications. We accordingly, dispose of this application with the direction to the respondents to consider the applicants for regularisation on the availability of ^{future} vacancies along with others ^{after} for granting them necessary educational and age relaxation and to continue them in their present jobs, subject to work being available, in preference to any other worker who may have lesser experience than them of working with the respondents.

8. There shall be no order as to costs.

R.K. Ahuja
(R.K. AHOOJA)
MEMBER(A)

B.C. Saksena
(B.C. SAKSENA)
VICE-CHAIRMAN(J)

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