CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA 1306/96
MA 619/97

with

OA 1695/96
OA 2383/96

33

New Delhi this the 15th day of February, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Shri R.K.Ahooja, Member (A)

OA 1306/96

Sh.V.V.Kashyap,
S/O Sh.B.L.Kashyap
Working as Deputy Superintendent,
Central Jail, Tihar, New Delhi.

.. Applicant

(By Advocate Sh.S.K.Gupta )

Versus

Govt.of National Capital Territoryof Delhi

1. Lt.Governor, Govt.of National Capital Territory of Delhi, Raj Niwas, New Delhi.
2. Chief Secretary, Govt.of National Capital Territory of Delhi-5, Sham Nath Marg, New Delhi.
3. Inspector General of Prison, Central Jail, Tihar, New Delhi.

.. Respondents

(By Advocate Shri Harvir Singh )

OA 1695/96

Sh.Balwant Singh
S/O Sh. Chandgi Ram working as
Deputy Superintendent, Central Jail,
Tihar, New Delhi.

.. Applicant

(By Advocate Shri S.K.Gupta )

Versus

1.Govt.of National Capital Territory of Delhi through

Lt.Governor, Government of National Capital Territory of Delhi, Raj Niwas, New Delhi.

2.Chief Secretary, Govt.of National Capital Territory of Delhi,5 Sham Nath Marg, New Delhi.

3.Inspector General of Prison, Central Jail Tihar, New Delhi.

4.Secretary, Ministry of Home Affairs, North Block, New Delhi.

.. Respondents

(By Advocate Shri Harvir Singh )

Or

OA 2383/96

(34)

1.Sh.Lal Singh S/O Sh.Mam Chand resident of 60, Rishi Apartments, Sector IX, Rohini

2.Mrs.Swatantra W/O Sh.J.K.Pahwa resident of J 5/52 G, Rajouri Garden, New Delhi.

3.Sh.I.D.Pandey, S/O Sh.D.N.Pandey, Resident of 544, Rishi Nagar, Rani Bagh, New Delhi-24

4.Sh.K.L.Kohli, S/O Sh.R.P.Kohli, resident of 10842/18, Pratap Nagar (Andha Mughal ) New Delhi-7

5.Sh.N.K.Gupta S/O Sh.Padam Prakash Gupta resident of B-589,Delhi Admn flat, Timarpur, New Delhi.

6.Sh.S.C.Tyagi S/O Sh.S.N.Tyagi, resident of Flat No.108,Ashirwad Enclave, Plot No.104, Patparganj, I.P.East, New Delhi

.. Applicants

(By Advocate Shri S.K.Gupta )

Versus

Govt.of National Capital Territory of Delhi through

1.Lt.Governor, Govt.of National Capital Territory of Delhi, Raj Niwas, Delhi

2.Chief Secretary, Govt.of National Capital Territory of Delhi, 5 Shyam Nath Marg, New Delhi.

.. Respondents

(By Advocate Shri Harvir Singh )

O R D E R (ORAL)

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

As the issues and facts in the above three OAs are similar, therefore, they are being disposed of by this common order.

2. The applicants in all the three OAs belong to Grade-I Delhi Administrative Subordinate Service(hereinafter referred to 'DASS). They submit that in terms of Delhi, Andaman and Nicobar Island Civil Service, Recruitment Rules, 1971 (hereinafter referred to 'DANICS' Rules), they had been promoted on ad hoc basis to hold the posts of DANICS. They submit that according to the Recruitment Rules they are entitled to hold duty posts which are enumerated in the Schedule I of the aforesaid Rules.

3. The respondents on the other hand have submitted that the applicants are not regular appointees to DANICS. They have also stated that DANICS Rules, 1971 are not in existence and they have been superseded twice in 1995 and in 1996. As the applicants are not members of the DANICS the question of posting the applicants against one of the DANICS cadres does not in any case arise. The appointments of the applicants according to the respondents have been made under the general power of administration and this appointment is against ex-cadre posts in various department of this Government which could not be filled up due to various reasons.

4. We have heard both the learned counsel and seen the pleadings.

5. The applicants before us in all the three cases admittedly belong to Grade-I DASS. They have not been appointed to DANICS as yet. Their appointments against the post of Deputy Superintendent of Central Jail are on an ad hoc basis. According to Sh. S.K.Gupta, learned counsel for the applicants some of the juniors of the applicants in Grade I DASS who have also been promoted on ad hoc basis, have been given duty posts of DANICS while this has not been done in the case of the applicants. We do not find any merit in this argument. The applicants who are ad hoc promotee cannot have a better claim than the regular appointees to the DANICS. The relevant portion of the DANICS Rules, 1996 with respect to posting of service reads as follows:-

> "Every member of the Service allocated to an Administration shall, unless he is appointed to the Ex-cadre post, or is otherwise not available for holding a duty post owing to the exigencies of the Public Service, be posted against a duty post under the Administration by the Administrator concerned."

The above shows that every member of the DANICS can be appointed to an ex-cadre post owing to the exigencies of the public service. Therefore, if the regular appointee can be appointed to the ex-cadre post the ad hoc promotees cannot claim that they have a better right and they can only be appointed against the cadre posts.

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6. We note that the above 3 OAs have been filed in 1996. In the normal course the applicants after completion of 3 years service would be due for a change. We enquired from the learned counsel whether the OAs have become infructuous on that account. According to the learned counsel, the applicants are still working against the same post for nearly 4 years. We have no doubt that the respondents will give due consideration to this aspect in regard to further/future postings of the applicants.

7. In the result OA fails and is dismissed. No order as to costs. Let a copy of this order be placed in OA 1695/96 and OA 2383/96.

(R.K.Ahooja)
Member(A)

(Smt.Lakshmi Swaminathan)
Member (J)

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