

Central Administrative Tribunal  
Principal Bench: New Delhi

OA No. 2453/96  
&  
OA 648/97

(15)

New Delhi, this the 29th day of August, 1997

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)  
Hon'ble Shri N. Sahu, Member (A)

OA 2453/96

Sh. Rajbir Singh Dalal,  
s/o Sh. Dharam Chand Dalal,  
Incharge Swimming Pool,  
BabuRam Composite Model,  
Senior Secondary School,  
Shahdara, Delhi. ....Applicant

(By Advocate: Shri D.R. Gupta)

Versus

1. The Director of Education,  
Govt. of N.C.T. of Delhi,  
Old Sectt., Alipur Road,  
Delhi.
2. The Deputy Director of Education,  
Chhatrasal Stadium, Model Town,  
Delhi.
3. Shri M.M. Sharma,  
r/o 25-C, Central Govt. Housing Complex,  
Vasant Vihar,  
New Delhi. ....Respondents

(By Advocate: Shri Vijay Pandita)

OA No. 648/97

Shri M.M. Sharma,  
r/o 25-C, Central Govt. Housing Complex,  
Vasant Vihar,  
New Delhi. ....Petitioner

(By Advocate: Shri E.M.S. Natchiappan)

Versus

1. The Chief Secretary,  
N.C.T.D.,  
5 Sham Nath Marg,  
Delhi.
2. The Director of Education,  
Govt. of N.C.T. of Delhi,  
Old Sectt., Alipur Road,  
Delhi.

3. The Deputy Director of Education,  
Chhatrasal Stadium, Model Town,  
Delhi.

... Respondents

(By Advocate: Shri Vijay Pandita)

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O R D E R (ORAL)  
[Dr. Jose P. Verghese, Vice-Chairman (J)]

The petitioner in OA 2453/96, is seeking a direction from this court that his candidature may be considered in accordance with the rules against the vacant post whenever it becomes next available. The post of Swimming Coach has now been advertised by an advertisement dated 3.8.1997 and a perusal of the said advertisement indicates that the post of Swimming Coach is vacant in the direct recruit quota and the petitioner is eligible in accordance with the recruitment rules for being considered against this post at the time of selection. The petitioner herein has also claimed a relief of arrears of salary on the ground that the petitioner has been working as a Swimming Coach since April, 1988. The order dated 19.4.1988 by which the petitioner was working as Swimming Coach indicates that this was only an internal arrangement and the petitioner was at the given time holding the substantive post of Physical Education Teacher in the Department of Education and it was stated that the petitioner will continue to draw his salary from the school where he was originally appointed through a nominee and as such the question of drawing additional salary against this post where he was posted on a look-after basis, cannot be considered in accordance with the rules, but in the event the respondents find that the petitioner has been discharging the duties of higher post for which a higher scale is prescribed, if any additional allowance is due for additional discharge of higher duties, the same may be calculated and paid to the petitioner in accordance with the rules within eight weeks of this order.

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2. The petitioner says that he has been looking after the higher post with higher pay scale since 1988 and in the circumstances, the respondents may consider whether the petitioner in the circumstances is entitled to any additional allowance or not and the order in this regard shall be communicated to the petitioner as expeditiously as possible.

3. It goes without saying that the advertisement now published dated 2.8.1997 to recruit a Swimming Coach against a vacancy under the direct recruit quota, the petitioner shall also be considered along with any other candidate who may apply in response to the said advertisement. Respondents shall also keep in mind at the time of selection, the long years of his work as an internal arrangement, reflected by their own order dated 19.4.1988, at the time of selection or filling up of the vacancy in accordance with the rules.

4. OA No. 648/97 is also coming up for hearing today. The petitioner herein also is eligible to be considered against the said post which is now advertised by the above referred advertisement in the direct recruit quota since the petitioner in this OA is also eligible for consideration, he shall also be considered along with all other persons who would apply in response to the said advertisement. The case of the petitioner shall be considered keeping in view the number of years the petitioner has already put in as well as the fact that he has been holding the post on an ad hoc basis since 1996.

In case he is selected against the said post, the same shall be treated as provisional subject to the disciplinary proceedings pending against him.

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5. The petitioner had approached this court against a reversion order from the post of Swimming Coach on an ad hoc basis and by an interim order, the reversion order was stayed and it is stated that the vacancy had arisen due to the retirement of one Shri Mahi Singh in the year 1996 and the petitioner was appointed, rightly or wrongly, against the said post and it is stated that the petitioner in this OA is on the said post on an ad hoc basis till today. The petitioner shall not be replaced until the regular incumbent joins the post after due selection in accordance with the advertisement. It goes without saying that since the reversion has already been stayed by this court, the petitioner also has a claim to be considered for regularisation in case he is not replaced till then by the newly appointed persons in response to the advertisement, as and when a vacancy arise in the promotee quota. The said consideration will also be subject to the result of the disciplinary proceedings pending against him. The selection process shall be finalised as expeditiously as possible and preferably within four months. Since we are not passing any orders on the pending disciplinary proceedings, the liberty is granted to the petitioner to approach the court as and when cause of action arises.

6. With these, both the OAs are disposed of, with no order as to costs.

Naresh

(N. Sahu)  
Member(A)  
Naresh

(Dr. Jose P. Verghese)  
Vice-Chairman (J)