CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA 2691/1996 with OA 2516/1996

New Delhi, this 30th day of May, 1997

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

1. Shri T.D. Kataria
   s/o late Shri B.D. Kataria
   D-145, Jhilmil Colony, Delhi-95
2. Shri O.P. Makhija
   s/o Shri S.L. Makhija
   S-1/26, Sadiq Nagar, New Delhi .. Applicants in OA
                                        2691/1996

(By Advocate Shri N.K. Aggarwal)

Shri R.K. Bhasin
s/o late Shri T.R. Bhasin
C4/E-134, Janakpuri, New Delhi .. Applicant in OA
                                     2516/1996

(By Advocates Shri M.L. Chawla with Shri S.L.Lakhan Pal)

versus

Union of India, through

1. Secretary
   Ministry of Defence
   South Block, New Delhi
2. JS(Trng) & Chief Admn. Officer
   Ministry of Defence
   C-II Hutments, Dalhousie Road
   New Delhi   .. Respondents

(By Shri J.S. Joshi, Director-Deptl. Representative)

ORDER(oral)

Hon'ble Dr. Jose P. Verghese

Shri N.K. Aggarwal, learned counsel for the applicants has stated that the respondents have now regularised 44 Technical Assistants in Grade B (Rs.2000-3200) by an order dated 15.1.97. It was pointed out that the persons at Sl.No.18 to 23 are junior to the applicants herein. Admittedly, applicants No.1 and 2 in the first OA were initially appointed as Punch Card Machine Operators in the year 1964 and 1965, respectively.

2.   Departmental representative Shri Joshi, present in the court, stated that regularisation of the persons by order dated 15.1.97 was on the basis of the Recruitment Rules

finalised by an order dated 20.1.95, according to which the candidates were required to have graduation in relevant discipline as well as 'O' level certificate in computer application. Since the applicants do not have 'O' level certificate in computer application and graduation in the relevant discipline, they were not considered. It is an admitted fact that the applicants are otherwise graduates.

3. The order dated 15.1.97 is on the basis of the R/Rules of 20.1.95 and in the case of six juniors, the respondents have applied the said R/Rules with retrospective effect, i.e. to say the respondents have regularised the juniors to the applicants, 3 to 5 years prior to the date of the R/Rules.

4. In view of a similar situation that has arisen in OA 725/97 and in view of the order passed in that OA for the reasons stated therein by our order dated 23.5.97, respondents should not have applied the R/Rules with retrospective effect and regularised the juniors to the applicants and not regularised the services of the applicants on the ground that the applicants have not fulfilled the eligibility criteria prescribed subsequently in 1995.

5. In the light of these observations, Shri Joshi appearing on behalf of the respondents states that they would need more time to consider regularisation of the applicants as well prior to 1995 as has been done with respect to six juniors to the applicants at Sl.No.18 to 24 by order dated 15.1.97, without insisting on the eligibility criteria prescribed subsequently in the year 1995. The respondents shall

reconsider the case of applicants as well without insisting on eligibility criteria prescribed subsequently in the year 1995; since the respondents' order does not apply retrospepctively. Respondents are at liberty to reconsider the case of the applicants, in the light of the observations made above' and in the light of order dated 23.5.97 passed by this Court, a copy of which was produced Shri N.K. Aggarwal, and regularise the applicants in accordance with all other eligibility criteria, applicable prior to 1995. This should be done within a period of two months from today. Applicants are given liberty to approach this court if any further grievance survives by the order to be passed by the respondents.

OA 2516/1996

6.   The order passed in OA 2691/96 as above would also be applicable in the case of OA 2516/1996.

7.   Both the OAs are disposed of as aforesaid. No order as to costs.

(S.P. Biswsas)-   (Dr. Jose P. Verghese)
Member(A)   Vice-Chairman(J)

/gtv/   Attested

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