

Central Administrative Tribunal
Principal Bench

O.A. 397/96

New Delhi this the 2nd day of August, 2000

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Hon'ble Shri S.R. Adige, Vice Chairman(A).
Hon'ble Smt. Lakshmi Swaminathan, Member(J).

1. Shri Sukhvir Singh Dhirwal,
S/o Shri Khazan Singh,
D-5/26, East Gokulpuri,
Delhi-110094.
2. Shri Narender Singh,
S/o Shri Babu Lal,
R/o H.No. 712, Four Storyed,
Raghuvir Nagar, New Delhi-27.
3. Shri Nandan Singh Negi,
S/o Shri Tej Singh Negi,
R/o H-163, DESU Colony,
near R.P. Bagh, Delhi-110007.
4. Shri Surender Kumar,
S/o Shri Mehar Singh,
R/o C-24, Shivaji Park,
Punjabi Bagh,
New Delhi-110026.
5. Shri Suresh Kumar,
Shri Gian Chand,
R/o 83/1, Mirdard Lane,
Delhi-110002.

... Applicants.

(By Advocate Shri S.C. Luthra)

Versus

1. Government of NCT of Delhi
through Secretary, (Medical),
5, Shamnath Marg,
Delhi-110054.
2. Medical Superintendent,
Lok Nayak Jai Parkash Narain
Hospital,
New Delhi-110002.

... Respondents.

(By Advocate Ms. Sumedha Sharma)

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicants, five in number, have filed this application stating that they are aggrieved by the refusal of the respondents to regularise them in the posts of

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Telephone Operators (TOs) against which they have been working for a number of years and to give them the pay equivalent to holder of that post.

2. The brief relevant facts of the case are that the applicants joined service with the respondents as Nursing Orderlies, which is a Group 'D' post. They have stated that some of them have been deputed to work as TOs by the respondents from 1989, and others thereafter. Accordingly, their contention is that they have been posted as TOs and doing that job for a number of years. Some of the applicants have undergone the training of one month as TO and possess the certificates. They have submitted that applicants 1 and 2 are 12th class pass, whereas applicants 3 and 4 are 10th class pass and applicant 5 is only 8th class pass. Under the Rules, the minimum educational and other qualifications for direct recruits are, matriculate or equivalent and a certificate in the operation of Telephone Exchanges from the Telephone Department or recognised Institute. Admittedly, applicant 5 does not possess the certificate of the necessary educational qualification prescribed in the Rules. During the course of arguments, Shri S.C. Luthra, learned counsel has submitted that he is pressing the application only in respect of applicants 2, 3 and 4. His contention is that as they have been performing the duties of TOs for a number of years and are also qualified in terms of the Rules for direct recruitment of TOs, they should be regularised in those posts in the grade of Rs. 955-1500 and given the

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consequential benefits. He has also submitted that since the applicants are now over-aged, the respondents should also be directed to grant them age relaxation.

3. We have perused the counter reply filed by the respondents and also heard Ms. Sumedha Sharma, learned counsel. The main contention of the respondents is that there are no sanctioned posts of T0s. However, they have not denied the fact that the applicants have been posted, some of them from 1989, to work as T0s. They have also submitted that for the smooth running of the hospital, Group 'D' and clerical staff are deputed to work in those posts. They have agreed that some of the applicants have also been given the training as T0s, but their main contention is that since they do not have any sanctioned posts of T0s in the hospital, there is no question of regularisation of the applicants.

4. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

5. The learned counsel for the applicants has submitted that applicants 2,3 and 4 have the necessary qualifications under the Recruitment Rules for the posts of T0s and although they are Group 'D' employees, they have been put to work in these posts for the last several years which fact is not denied by the respondents. We are not impressed by the submissions made on behalf of the respondents that as there are no sanctioned posts of T0s in the hospital, the applicants cannot be regularised in those posts. It is very clear from the reply given by the

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respondents themselves that for the smooth running of the hospital, they need TOs to attend to the telephone calls for which they have been utilising the services of either Group 'D' or clerical staff. It is also a fact that applicants 2,3 and 4 possess the minimum educational qualifications required for the post, that is matric or equivalent and have also been deputed to do the job of TO for a number of years and some of them have also received the training and certificate. It is also relevant to note from the pleadings that in the G.B. Pant Hospital, although it might not be part and parcel of the LNJP Hospital, it is stated that most of the Group 'D' employees, who were earlier working in the Telephone Exchange were regularised as TOs. Therefore, there is no reason why the respondents cannot also take similar action, when admittedly they require TOs for proper functioning of the hospital, which is in the public interest.

6. In the facts and circumstances of the case, O.A. is disposed of with the following directions:

Respondents shall take appropriate action expeditiously, and in any case within six months from the date of receipt of a copy of this order to obtain sanction from the competent authority for creation of sufficient number of posts of Telephone Operators in the LNJP Hospital. Thereafter, in case the applicants 2,3 and 4 apply for those posts, they shall be considered in accordance with the relevant Rules, subject to age relaxation, taking into account their past services as TOs

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✓ after they have acquired the necessary qualification and certificate. No order as to costs.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member(J)

S. R. Adige

(S. R. Adige)
Vice Chairman(A)

'SRD'