

(21)

Central Administrative Tribunal
Principal Bench, New Delhi

OA No. 960/96

New Delhi this the 7th day of February, 2000

Hon'ble Mr. Justice V. Rajagopala Reddy, VC (J)
Hon'ble Mr. M.P. Singh, Member (A)

1. Raj Pal aged 42 years son of Nem Singh,
B-47, Central Jail. Staff Quarters, New
Delhi.
2. Rajinder aged 42 years, Son of Shri O.p.
Sharma, B-6, Double Storey, Central
Jail Staff Quarters, New Delhi.
3. Badri Dutt Pant Son of Shri Jai Dutt.
Pant, C-17, Gali No.6, Raja Puri, New Uttam
Nagar, New Delhi.
4. Ishwar Singh Son of Shri Ghisa Ram
D-16, Central Jail Staff Quarters, New Delhi.
5. Rameshwar Dutt, Son of Shri Bhim Singh
A-23, Double Storey, Central Jail Staff
Quarters, New Delhi.
6. Ram Phall, Son of Shri Shri Ram
A-12, Double Storey, Central
Jail Staff Quarters, New Delhi.
7. Inderjet Singh, Son of Shri Bali Ram Singh
A-34, Double Storey, Central
Jail Staff Quarters, New Delhi.
8. Ghisa Ram. son of Bhai Ram,
RZ-C-67 Mahabir Enclave, New Delhi.

....Appellants

Versus

1. Government of National Capital Territory of
Delhi, through Secretary, Home, 5, Sham Nath
Marg, Delhi

CAA

VEISIB

1. Government of National Capital Territory of Delhi, through Secretary Home, 5 Shah Hath Path, New Delhi.
2. Chander Datt Sharma head warder, General Secretary, Tihar Jail Employees Association Jail NO:4, New Delhi.
3. National Open school, New Delhi through its Regional Director, B/31-B, Kailash Colony, New Delhi.
4. The Central Bureau of Investigation Lodhi Estate New Delhi through its Director.
5. Om prakash Asstt. Superintendent, Jail NO:2 Tihar Jail, New Delhi.
6. Chohol Singh, Asstt. Superintendent, Jail NO:3, Tihar Jail, New Delhi.
7. Surjet Singh, Asstt. Superintendent, Jail NO:4, Tihar Jail, New Delhi.
8. Devi Ram, Asstt. Superintendent, Jail NO: 4, Tihar Jail New Delhi.
9. Tota Ram Head Warder, Jail NO:1, Tihar Jail. New Delhi.
10. Ram Singh, Head warder, Jail NO:1, Tihar Jail, New Delhi.
11. Survinder chowdhary, Head warder, Jail NO:1, Tihar Jail, New Delhi.
12. Manoj Chowdhary, Head warder, Jail NO:5, Tihar Jail New Delhi.

.. Respondents


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ORDER (Oral)

By Reddy, J.-

The applicants were appointed as Warders in the Central Jail Delhi. The names of the applicants were shown in the seniority list circulated on 2.2.85 prior to the Recruitment Rules made on 16.6.95. There were no promotional avenues for warders. The Recruitment Rules to the post of Assistant Superintendent in Central Jail Tihar were promulgated in 1995. The appointments under the Rules are made, 75% by direct recruitment and remaining 25% by way of promotions from the posts of Warders. 10 years regular service as Warders are required for promotion in addition to the other category of Headwarders. The applicants state that they were having more than 5 years of regular service of the Warder. The recruitment under this rule was made by way of DPC in December 1995 and the eligible warders were considered. The applicants submit that they were not promoted in 1995 as the recruitment was deliberately delayed holding the meeting of Departmental Promotion Committee only in December 1995 when the results in the examination held by the National Open School were announced and such of those persons who had passed the examination were promoted. It is thus the case of the applicants that the promotion examination was not held properly and the date was declared and chosen only for the purpose of promoting the persons who passed the National Open School Examination. It is



also the case of the applicants that the examinations in the National Open School was held within the premises of the Jail and that it was a farce of an examination.

2. The respondents denied the allegations and submitted that the examinations were held within the premises in order to be more convenient for the Warders. It is also the case of the respondents that the DPC was held in December 1995 as by that time sufficient number of vacancies became available.

3. Heard the counsel for the applicant. None appears for the respondents. As the matter is of 1996, we have proceeded to dispose of the OA on merits.

4. We do not find any substance in the plea raised by the applicants. The learned counsel for applicants alleged that the examinations were held within the premises of the Jail and that the examination held by them was unfair. The said allegations have been stoutly denied. No material is placed before us in support of the allegations. It is within the domain of the employer to fill up the posts taking into consideration the administrative exigencies and looking into the availability of the vacancies. It is clearly stated in the counter of the Respondent No. 3 to 12 that the examination was held in December 1995, as by that time sufficient number of vacancies became available. It is delayed on that ground. The


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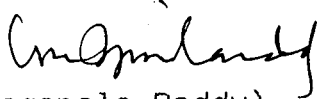
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promotion is not by way of seniority but on the basis of selection by the DPC. The applicants, therefore, cannot make a grievance for not being selected. No allegations are made against the DPC in the matter of promotion. We, therefore, do not see any merit in the OA.

5. It is, however, stated by the learned counsel for the applicants that the applicants are still not promoted though they are eligible as per the Recruitment Rules for promotion to the post of Assistant Superintendent of Jail. It is also stated that the vacancies of Assistant Superintendent are available. In the circumstances, we direct the respondents to consider the case of the applicants for promotion, if any vacancies are available, in accordance with rules.

6. With the above observations, the OA is disposed of. No costs.


(M.P. Singh)
Member (A)


(V. Rajagopala Reddy)
Vice-Chairman (J)

cc.