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O.A.No.1100/96

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

New Delhi, this 25th day of April, 1997

1. Shri Nathu Singh  
s/o Shri Narkesh Singh
2. Shri Umesh Chand  
s/o Shri M.C.Mathur
3. Shri Jai Narain  
s/o Shri Ram Kishan
4. Shri Ayub Khan  
s/o Shri Sube Din
5. Shri Akhlesh Mani  
s/o Shri Surender Pd.

All the applicants are employed as Temporary Status Casual Labourers in Delhi G.P.O. They are residents of Delhi. Address for service of notices: C/o Shri Sant Lal, Advocate, C-21(B), New Multan Nagar, Delhi - 110 056.

(By Shri Sant Lal, Advocate)

Vs.

1. The Union of India through  
the Secretary  
Ministry of Communication  
Department of Posts  
Dak Bhawan  
New Delhi - 110 001.
2. The Chief Postmaster General  
Delhi Circle  
Meghdoot Bhawan  
New Delhi - 110 001.
3. The Chief Postmaster,  
Delhi G.P.O.  
Kashmeri Gate  
Delhi - 110 006.

Respondents

(By Shri B. Lall, Advocate)

QUESTION PAPER O R D E R (Oral)

The applicants who were engaged as Casual Labourers in the Postal Unit of Delhi Postal Circle on various dates during the year 1981-1984 were granted temporary status w.e.f. 29.11.1989. The Literacy Test for regularisation/appointment to Group 'D' Cadre (Test Category) of Casual Labourers was held on 4.4.1993 in

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which the applicants have also appeared. The applicants, 5 in number were also amongst 16 casual labourers who were also qualified for the said Test. Their grievance is that though the 11 persons out of 16 who were qualified, were regularised and appointed as Packers, the same was not done in respect of the applicants. They have now approached the Tribunal for a direction to respondents to consider them for regularisation in Group 'D' cadre in Delhi GPO on the basis of the Test held on 4.4.1993, from the due dates. They also pray to quash the impugned notification dated 6.5.1996 by which the next test was scheduled to be held on 9.6.1996.

2. The respondents in their reply statement admitted that 16 candidates, including the applicants, have qualified in Test held on 4.4.1993. Of these 11 candidates were appointed on regular Group 'D' posts on the basis of the available vacancies in respect of their respective posts but the applicants could not be so appointed due to non-availability of Group 'D' posts in GPO-6, where the applicants have been working. For that reason, the result of the Test, in so far as it related to the applicants, was cancelled. Two more Literacy Tests were held on 12.6.1994 and 11.6.1995, but in these cases also their results were not declared. The respondents however, say that on reconsideration and keeping in view the number of vacancies and rules/instructions on the subject, the results of these Tests have since been declared on 10.7.1996. They also say that, out of 27 vacancies have to be filled on the basis of the 1996 Literacy Test, 5 posts have already been kept reserved for the applicants.

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I have heard the counsel. The controversy is now confined inasmuch as the respondents have agreed to appoint the applicants on the basis of the 1993 Literacy Test. The question which remains is whether these appointments should be taken from the back date i.e. from the year 1993, with consequential benefits that the applicants have sought in their OA.

4. Learned counsel for the applicants submits that since vacancies were available in 1993 and the applicants were not justifiably kept out of appointment against the regular posts, they are entitled to all the consequential benefits in terms of seniority and difference in pay.

5. Learned counsel for the respondents however, denies that vacancies were available in 1993 and also argues that the applicants have come before the Tribunal only on 22.5.1996 and the reliefs to be granted have to be determined accordingly.

6. I have considered the matter. Since there was a common test held and 16 persons were qualified out of which 11 persons were appointed and regularised, the presumption would be that the applicants having also qualified, would also have to be regularised from the same date. However, their seniority in such case will also be from the date the other 11 persons were appointed. <sup>At the same time</sup> ~~However~~, the financial implications, if any, have to be determined in terms of the time frame in which the OA has been filed. The OA is disposed of with the following directions:

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a) The respondents will regularise the services of the applicants from the same date when they have regularised the other 11 persons who were qualified in the test in 1993.

b) The applicants will have notional seniority and pay fixation from the same date when the other 11 persons were appointed.

a) Payment of

c) The difference in pay arising out of the refixation would be limited to the date of filing of this OA, i.e., 22.5.1996.

7. The respondents will carry out the above directions within three months from the date of communication of this order. No costs.

R.K. Ahuja

(R.K. AHOOJA)

MEMBER(A)

/rao/