

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

CP 158/99 in

O.A. No. 2987/97

T.A.No.

1997

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DATE OF DECISION 16.8.2000

Sh. Vijay Pal Singh & Ors

....Petitioner:

Sh. D. N. Vohra

....Advocate for the
Petitioner(s)

VERSUS

Sh. R. N. Mishra,
Genl. Manager, Delhi Milk Scheme,
West Patel Nagar

....Respondent:

Sh. V. S. R. Krishna

....Advocate for the
Respondents.

CORAM

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

The Hon'ble Shri S. A. T. Rizvi, Member (A)

1. To be referred to the Reporter or not Yes
2. Whether it needs to be circulated to other
Benches of the Tribunal? No.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

CP 158/99 in
MA 1647/99
OA 2987/1997

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New Delhi this the 16th day of August, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Shri S.A.T. Rizvi, Member (A)

1. Sh. Vijay Pal Singh
S/O Sh. Baljeet Singh, C-528.

2. Sh. Ram Narayan,
S/O Sh. Arjun Singh,
C-319.

3. Sh. Ram Karan Singh
S/O Sh. Shiv Raj Singh
C-398

4. Sh. Surender Singh
S/O Sh. Meharban Singh
C-460.

5. Sh. Suresh Prashad
S/O Sh. Ram Avadh, C-443.

6. Sh. Om Parkash
S/O Sh. Harish Chand
C-277.

..Petitioners

Working as Mates, Delhi Milk Scheme,
West Patel Nagar, New Delhi.

(By Advocate Shri D.N. Vohra)

Versus

1. Sh. R.M. Mishra, General Manager,
Delhi Milk Scheme, West Patel Nagar,
New Delhi-8

..Respondent

(By Advocate Sh. V.S.R. Krishna)

O R D E R (ORAL)

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

The petitioners have filed CP 158/99 in which they have alleged that the respondents have not complied with the order of the Tribunal in OA 2987/1997 dated 4.9.1998, the relevant portion (Para 7) of which reads as follows:-

" For the foregoing reasons we allow this application to the extent of issuing directions to the respondents to consider the cases of the applicants also for promotion

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to the post of Heavy Vehicle Drivers provided they are found fit and eligible."

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2. The main contention of the learned counsel for the petitioners in the CP is that the respondents in their reply, do not disclose that they have properly considered the petitioners for the post of Heavy Vehicle Drivers (HVDs) in terms of the aforesaid directions of the Tribunal. However, this has been stoutly denied by Shri V.S.R. Krishna, learned counsel for the respondents, who has submitted that the Tribunal had only intended in the aforesaid directions that they should consider the cases of the applicants for promotion to the post of HVDs, in accordance with the relevant Rules which are statutory in nature. He has submitted that this has been done under the relevant Recruitment Rules (RRs) for consideration for promotion against the 50% quota to the posts of HVDs, the feeder category of which is Drivers (Misc. Duty) with atleast three years service in the grade, subject to the further conditions mentioned therein. According to the learned counsel for the respondents, the respondents have faithfully carried out the directions of the Tribunal as given in Para 7 of the order dated 4.9.98 and/ have in no way wilfully or contumaciously disobeyed the order. The respondents in their reply have also stated that the petitioners have wilfully suppressed certain relevant facts, including the fact, that they have been duly considered by them and have been found ineligible and ~~therefore~~ they have also been informed accordingly by Notice dated 15.11.1999.

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

4. The main plank on which the learned counsel for the petitioners has submitted that the respondents are guilty of contempt of the Tribunal's order is that the Tribunal had taken into account the facts that several Mates have been selected who had appeared in the test earlier for the post of HVDs on promotion basis. He has submitted that the applicants who are admittedly Mates are also doing the job of HVDs whenever called upon by the respondents.

5. Para 7 of the Tribunal's order as ^{reproduced above,} would obviously mean that the applicants have to ^{be} fulfilled the required terms and conditions as laid down in the RRs, for such promotion. After the Tribunal's order, it is noticed that the respondents have considered the aforesaid directions of the Tribunal in dealing with the applicants' case and have submitted that as they do not fulfil the terms and conditions of the RRs as they are Mates, they were not eligible for being given further tests for promotion. During the hearing, Shri Krishna, learned counsel has, however, clarified that the respondents will have no objection if the petitioners apply against ^{the} 50% direct recruitment quota and in case they fulfil those conditions under the Rules, they shall be considered in accordance with the relevant Rules. In this view of the matter, the respondents shall in case, the petitioners apply for the post of HVDs for direct recruitment quota, consider them in accordance with the relevant Rules and to this extent we do not accept the reply

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given by the respondents in Paragraph 4 . Shri Krishna,


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learned counsel, on behalf of the respondents has also
tendered unconditional apology for this erroneous statement
in the reply which we ~~have~~^{is} accepted.

6. Taking into account the facts and circumstances of the
case, we are unable to agree with the contentions of Shri D.N.
Vohra, learned counsel for the petitioners that the respondents
have either wilfully or contumaciously disobeyed the Tribunal's
order as regards considering the cases of the applicants
against the promotion quota.

7. In the result while we dismiss the Cp, the respondents
are also directed to note what has been stated in Paragraph 5
above, regarding consideration of the petitioners case for
direct recruitment as HVDs. ^{RA}In case they fulfil the terms and
conditions laid down under the RRs, their cases shall be
considered in accordance with the RRs. Notice to the Cp is
discharged.


(S.A.T. Rizvi)
Member(A)


(Smt. Lakshmi Swaminathan)
Member(J)