

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

CP No. 397/2000 in
O.A No. 1656/1997
T.A No.

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Date of Decision 13.7-2001

Sh.Narayan Singh & Ors.

..petitioner

Sh.S.M.Garg

..Advocate for the petitioner(s)

Versus

Sh.Krishan Kumar

..Respondent

Sh.K.C.D.Gangwani, Ld. Senior
Counsel with Sh.D.S.Mahendru. Advocate for the Respondents

Coram:-

Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman(J)
Hon'ble Shri Govindan S.Tampi, 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)
Vice Chairman (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

CP No.397/2000
in
OA N.1656/1997

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New Delhi this the 13th day of July, 2001

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

1. Narayan Singh
S/O Shri Mohan Singh,
working as Motor Lorry Driver,
in Yamuna Bridge Project,
Division-III, PWD, New Delhi.
2. Subhash Chander
S/o Shri Mohit Ram,
working as Motor Lorry Driver,
PWD Division-21, Ishawar Nagar,
Kalka Mod, New Delhi-110065
3. Shanta Prasad S/O Sh. Rudra Prasad,
working as Motor Lorry Driver,
in PWD Division-III,
under ISBT Flyover, New Delhi
4. Sh. Dinesh Kumar
S/O Sh. Choti Ram,
working as Motor Lorry Driver,
PWD Division No. 30, Patparganj,
Delhi-91

... Petitioners

(By Advocate Shri S.M. Garg)

VERSUS

Shri Krishan Kumar,
Director General (Works),
CPWD, Nirman Bhawan, New Delhi.

... Respondent

(By Advocate Shri K.C.D. Gangwani,
learned Senior counsel with Shri
D.S. Mahendru)

O R D E R

(Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J))

We have heard Shri S.M. Garg, learned counsel for the petitioners and Shri K.C.D. Gangwani, learned Senior counsel with Shri D.S. Mahendru, learned counsel for the respondents on CP 397/2000.

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2. Learned counsel for the petitioners has submitted that the respondent has wilfully disobeyed the Tribunal's order dated 22.3.2000 in OA 1656/1997. According to him, the respondents should not have held the trade test as the Tribunal had directed them to consider their claim for regularisation. The Tribunal had also further observed that "While considering their claim, respondents will bear in mind that all the applicants have cleared their trade test which is pre-requisite for regularisation".

3. On the other hand, in the reply filed by the respondents, they have submitted that they have complied with the directions of the Tribunal and asked the petitioners to appear before a duly constituted DPC for consideration of their case for regularisation in accordance with the relevant rules for the post of Motor Lorry Drivers (MLDs). The petitioners had appeared before the DPC on 21.5.2001. All of them were interviewed individually and their documents were examined by the DPC. As per the O.M. dated 28.5.2001, the DPC had opined that none of the candidates possess requisite experience certificate with regard to overhauling and repairs for heavy motor vehicle, as required under the RR for MLD. They have also submitted that experience certificates produced by the petitioners were not adequate and as such the DPC did not find them fit for regularisation for the post of MLD. The copies of the experience certificates submitted by the petitioners which were produced by Shri D.S. Mahendru, learned counsel, are placed on record. It is noticed from these certificates that they were issued by the concerned Executive Engineers in the office of respondents in different dates in May, 2001. The contentions of Shri S.M. Garg, learned counsel that the revised RRs in respect of MLDs as mentioned in OM dated 17.12.1999 (Annexure R-1) will

not apply in the case of petitioners cannot be accepted, having regard to the Tribunal's order dated 22.3.2000. In the facts and circumstances of the case, we find merit in the submissions made by the learned counsel for the respondents that while considering the claim of the petitioners for regularising as MLDs, the respondents have to take into consideration the relevant RRs which prescribe, inter-alia, that the candidate for the post of MLD must possess a driving licence for heavy motor vehicle and driving, over hauling and repairs experience for a period of at least 5 years of which at least 3 years should be heavy motor vehicle. Having regard to these provisions of the Rules, the experience certificates relied upon by the learned counsel for the petitioners will not assist them or to show that the respondents have wilfully disobeyed the Tribunal's order to justify further action being taken against them under the provisions of the Contempt of Courts Act, 1971 read with Section 17 of the Administrative Tribunals Act, 1985. In this view of the matter, CP 390/2000 is liable to be dismissed.

4. During the hearing, Shri S.M. Garg, learned counsel has submitted that as the petitioners have worked for more than 10-11 years as MLDs, the respondents cannot compel the petitioners to produce further certificate of experience in over hauling and repairs of vehicles. On the other hand, Shri K.C.D. Ganwgani, learned Senior counsel has submitted that the action of the respondents cannot be considered as in violation of the directions of the Tribunal, although he has submitted that considering the fact that the petitioners have worked for more than 10-11 years with the respondents, if the Court directs that a practical test be held for them for the purposes of ascertaining their ability for over-hauling and

repairs, they could again be considered for ascertaining whether they possess the requisite qualification with regard to this experience.

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5. Therefore, in view of the peculiar facts and circumstances of the case and particularly that the respondents have employed the applicants for more than a decade as MLDs, as submitted by Shri K.C.D.Gangswani, Learned Sr.counsel, the respondents should hold a practical test with regard to ascertaining the ability of the petitioners for over-hauling and repairs of heavy motor vehicles as required in the Rules. In case they pass the test, they should consider them as having the necessary period of experience as laid down in the revised RRs as they have been employed as MLDs for over a decade, for further considering them for regularising as MLDs in terms of the Tribunal's order dated 22.3.2000.

6. In the above view of the matter, CP 397/2000 is dismissed with the above observations. Notice issued to the alleged contemnor is discharged.

(Govindan S.Tampi)
Member (A)

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(Smt.Lakshmi Swaminthan)
Vice Chairman(J)