

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No. 2987/97
MA No. 3052/97

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New Delhi, this the 4th day of September, 1998

HON'BLE SHRI T.N. BHAT, MEMBER (J)
HON'BLE SHRI S.P. BISWAS, MEMBER (A)

In the matter of:

1. Vijay Pal Singh S/O Sh. Baljeet Singh
C-528,
2. Ram Narayan S/O Sh. Arjun Singh
C-319
3. Ram Karan Singh S/O Sh. Shivraj Singh
C-398
4. Surender Singh, S/O Sh. Meharban Singh
C-460
5. Suresh Prashad S/O Sh. Ram Avadh
C-443
6. Om Parkash S/O Sh. Harish Chand
C-277

Working as Mate, Delhi Milk Scheme,
West Patel Nagar, New Delhi. Applicants
(By Advocate: Sh. D.M. Vohra proxy for
Sh. Mahesh Srivastava)

Vs.

1. Union of India
Through its Secretary,
Ministry of Agriculture,
Rafi Marg, New Delhi.
2. Delhi Milk Scheme,
Thr. General Manager,
West Patel Nagar,
Shadipur, Delhi.
(By Advocate: Sh. Mohar Singh)

.... Respondents

O R D E R (ORAL)

delivered by Hon'ble Shri T.N. Bhat, Member (J)

Heard.

As the pleadings are complete, with the consent
of counsel for the parties, the OA is being disposed of at
the admission stage itself.

by

2. The applicants in this OA substantively hold the posts of Mates, though they have occasionally been given the duty of Heavy Vehicle Drivers. They are now aggrieved by the notice dated 30.5.97/3.6.97 issued by the respondents by which applications for direct recruitment to the post of Heavy Vehicle Drivers have been called without asking the Mates working in the Department to apply for the posts by direct recruitment. According to Recruitment Rules as at Annexure A-3 Drivers (Misc. duty) with at least 3 years service in the grade are eligible for promotion to the post of Heavy Vehicle Driver, and their share comes to 50% of the posts while the remaining 50% are required to be appointed by direct recruitment.

3. According to the respondents Mates are not eligible for being considered for promotion to the post of Heavy Vehicle Drivers. This contention is belied by the fact that vide the office order dated 21.4.98, as at Annexure 'A' to the rejoinder, not one but several Mates, who had applied for the post of Heavy Vehicle Driver and had also appeared in the test, have been selected and offered appointment, though on ad hoc and temporary basis, to the post of Heavy Vehicle Drivers. It is not denied by the respondents that the applicants had on certain occasions been given the duty of driving heavy vehicles, though it is further averred that this duty was given to the applicants only in cases of emergency. But the fact remains that Mates are being considered against the promotion quota of 50%.

[Signature]

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4. In view of the above, the action of the respondents in not calling eligible Mates as departmental candidates for appearing in the requisite test for promotion to the post of Heavy Vehicle Drivers cannot be sustained.

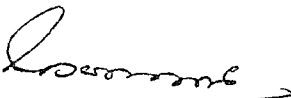
5. In this regard, we may mention that by a separate letter/circular the applicants had appeared in some trade test and, according to the learned proxy counsel for the applicant, this trade test was held for the purpose of considering the candidates against the promotion quota. According to the learned counsel, the respondents cannot now be heard to say that Mates are not eligible.

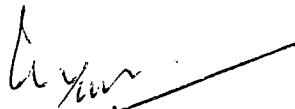
6. It has been pointed out by the learned counsel for the respondents that in para 8 of the OA the applicants have not specifically sought the relief for considering their cases for promotion as Heavy Vehicle Drivers. In reply, the learned counsel for the applicant states that sub-para (ii) of para 8 would squarely cover this relief. We are inclined to agree with this contention.

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

[Signature]

8. With this order the OA is disposed of, leaving the parties to bear their own costs. We further direct that this judgment shall be implemented within 4 months from the date of receipt of this copy.


(S.P. BISWAS)
Member (A)


(T.N. BHAT)
Member (J)

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