

7

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.No.1139/94

New Delhi this the 7th Day of December, 1994.

Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman(J)
Hon'ble Mr. B.N. Dhoundiyal, Member(A)

1. Sh. Ram Kumar,
S/o Shri Shitla Dev,
R/o B-1, 630 Janakpuri,
New Delhi.
2. Sh. Bindhya Din,
S/o Shri Jhore,
R/o B-51, Vikas Nagar,
Near Hartal Gaon,
Delhi.
3. Sh. Ram Sagar,
S/o Sh. Kedar Nath Yadav,
R/o C2-B, Janakpuri,
New Delhi.
4. Sh. Ram Baran,
S/o Sh. Jagar Nath Yadav,
R/o C2-B, Janakpuri,
New Delhi.
5. Sh. Hari Prasad,
S/o Shri Ram Bali,
R/o C-2-B, Janakpuri,
New Delhi.
6. Sh. Kali Charan,
R/o L-Block, Hari Nagar,
New Delhi.

Applicants

(through Sh. K.N.R.Pillai, advocate)

versus

Government of National Capital Territory
of Delhi,
through the Director of Education,
Directorate of Education,
Old Secretariat,
Delhi-6.

Respondent

(through Sh. S.K. Gupta, proxy counsel for
Sh. B.G. Gupta, advocate)

ORDER(ORAL)

delivered by Hon'ble Mr. Justice S.K. Dhaon, V.C.(J)

The applicants alleged that they were
engaged as part-time Malis in the year 1987. Their
grievance is that their services are not being
regularised.

87

A counter-affidavit has been filed on behalf of the respondents. To the said counter-affidavit, an amendment to the relevant rules, as introduced on 10.06.1987, has been shown in the form of Annexure R-1. It is to be noted that the rules have been framed under the proviso to Article 309 of the Constitution. It appears that 50% of the posts of Malis are to be filled up by direct recruitment and the remaining 50% of the posts from part-time group-D employees(Malis etc.), who have served as part-time worker in the local offices of Delhi Administration for a total period of 5 years failing which by direct recruitment. It is not in dispute that the applicants had put in 5 years service in the local offices of Delhi Administration in 1987 when they were appointed as part-time Malis.

On 31.12.1991 a memorandum was issued by the Delhi Administration. A true copy of the said memorandum has been filed as annexure R-2 to the counter-affidavit. The memorandum states that it has been found that in some cases the appointments of part-time employees were not made in the prescribed procedure which is stated there. We are concerned with the first condition of the prescribed procedure and that is that the appointment should be made against the sanctioned post on part-time basis by the Directorate of Education, Delhi. The applicants have not been able to show to us that their appointments were made against sanctioned posts. The learned counsel for the applicants has relied upon an office

9

-3-

memorandum dated 8.4.1991, a true copy of which has been filed as Annexure-I to the rejoinder-affidavit. By this memorandum, certain relaxations had been made as a one time measure. However, from a close reading of the memorandum, we find that the relaxations are confined to the condition that the engagement should be made through the Employment Exchange. The other relaxation is in relation to age. We have already indicated that the hurdle in the way of the applicants is that they had not been appointed against sanctioned posts. Lastly, the learned counsel for the applicants has placed before us an alleged letter of appointment issued by the Education Officer with respect to some other persons (not the applicants). There is a recital in this letter that the approval of the Directorate of Education had been obtained. No such averment has been made either in the original application or in the rejoinder-affidavit. We may note that the matter was heard in part on 25.11.1994 when the precise controversy was argued at the Bar. Thereafter, we had directed the learned counsel for the respondents to produce the notification dated 21.3.1975. Thus, the applicants had sufficient time to put forward their case that in fact they had ^{been} appointed against sanctioned posts.

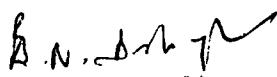
We have already indicated that the applicants had been working as part-time Malis since 1987. We are in the year 1994. The applicants, therefore, have put in the best part of their

10


-4-

service with the respondents. They have become over-age for any other employment. We have no doubt that taking this factor into account, the respondents shall now take steps to get the posts sanctioned against which the applicants were engaged and thereafter accord relaxation, if necessary, for regularising their services.

With these observations, the O.A. is dismissed but without any order as to costs.


(B.N. Dhoundiyal)

Member(A)


(S.K. Chaon)

Vice-Chairman(J)