

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. No. 265/1994

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New Delhi dated the 16th Feb., 1994

Hon'ble Sh. N.V. Krishnan, Vice Chairman (A)  
Hon'ble Sh. B.S. Hegde, Member (Judicial)

1. Mr. Hawa Singh Son of  
Sh. Sardar Singh  
R/O 1541, Gulabi Bagh, Delhi.
2. Mr. Sarma Nand Sharma son of  
Sh. Nanak Chand, H.No. 7594,  
Gali No. 12, Old Seelampur, Delhi. 31
3. Mr. Sat Narain son of Sh. Baru Ram Sharma,  
187, Sharda Niketan,  
Saraswati Vihar, Delhi.

... Applicants

(By Advocate Sh. S.C. Gupta Sr. Advocate  
with Sh. B.T. Kaul )

Versus

1. Lt. Governor of Delhi,  
Govt. of National Capital Territory of Delhi  
5- Sharnath Marg, Delhi
2. The Chief Secretary (NCT, Delhi)  
Delhi Administration Office  
5- Sharnath Marg, Delhi
3. The Secretary (Services)  
Delhi Administration Office (NCT, Delhi)  
5- Sharnath Marg, Delhi
4. The Secretary-cum-Commissioner (Transport),  
Delhi Administration (NCT, Delhi)  
5/9, Under Hill Road, Delhi
5. Union Public Service Commission,  
through the Secy. UPSC, Dholpur House,  
Shahajahan Road, New Delhi
6. The Commissioner of Police, I.P. Estate  
Building, New Delhi.
7. Mr. Dhir Singh,  
Enforcement Officer, Directorate of Transport,  
Delhi Admn. 5/9, Under Hill Road, Delhi

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8. Mr. Ashok Kumar Talwar,  
Enforcement Officer,  
Directorate of Transport,  
5/9 Under Hill Road, Delhi
9. Mr. Bir Singh, Enforcement Officer,  
Directorate of Transport  
5/9 Under Hill Road, Delhi
10. Mr. Satbir Singh, Enforcement Officer,  
Dte. of Transport, 5/9, Under Hill Road,  
Delhi

.... Respondents

ORDER (ORAL)

(Hon'ble Sh. N.V. Krishnan, Vice Chairman(A))

Applicants have filed MA 393/94 for filing  
joint application. Heard. That MA is allowed.

2. The applicants are at present Inspectors  
(Enforcement) in the Directorate of Transport, Delhi  
Administration. It is claimed that they are entitled  
to be considered for promotion as Enforcement  
Officer in accordance with the Ann. III notification  
under the proviso to Article 309 of the constitution,  
specifying the rules for <sup>or</sup> recruitment to this post  
in the schedule to that notifications. It is alleged  
that certain actions have been taken by the  
Department to fill up the posts of Enforcement  
Officer which are contrary to these recruitment  
Rules. The applicants have therefore, prayed for the  
following directions:-

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- i) Direct the respondents to initiate steps for seeking relaxation in the matter of educational qualification of the applicants from UPSC.
- ii) Direct the respondents to consider the applicants for promotion to the post of Enforcement Officers from the date they become eligible i.e. from 20.4.1994 and thereafter against the 50% quota by promotion under the Recruitment Rules.
- iii) Direct the Respondent not to fill by transfer on deputation 50% quota of posts/vacancies of Enforcement Officers by promotion.

3. Shri S.C. Gupta the learned senior counsel for the applicants has drawn our attention to the provisions in the various columns of the schedule to the Ann.II notification. He submits that it would be evident from the Col.11 that 50% of posts are to be filled up by promotion, failing which by transfer on deputation. We are not concerned with the consequence if both these methods do not succeed. The educational and other qualifications required for direct recruits (D.R.) are specified in Col.8. It is stated in Col.9 that <sup>u</sup>are prescribed for Direct Recruits will not apply to promotees but the educational qualification prescribed for Direct Recruits will apply. Col.8 regarding educational and others qualifications <sup>u carries</sup> for direct recruits <sup>u</sup> / the following note.

"NOTE -1" Qualification are relaxable at the description of UPSC in case of candidates otherwise well qualified"

<sup>u</sup> We are not concerned with Note -2<sup>u</sup>

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4. Learned counsel for the applicant states that qualifications for direct recruits are relaxable at the discretion of UPSC. The educational qualifications for direct recruits have admittedly been made applicable for promotees also. Therefore, UPSC has a right to consider relaxing the same for promotees. Respondents cannot, on their own, take any unilateral decision that applicants do not have the necessary educational qualification and that, therefore, they cannot be promoted and for this reason *Q recruitment* by resort to ~~recruitment~~ / transfer on deputation. He *with* contends that UPSC has been vested / power of relaxation. It was the duty of the respondents to refer the cases of the applicants in the first instance, to the UPSC to seek relaxation and, if such relaxation is permitted. Considering the cases of the applicant for promotion. It is only if such relaxation is refused they can resort to *Q recruitment* by ~~recruitment~~ / transfer on deputation. He contends that Note 1 below column 8 has to be read as having been incorporated in col.9 where the rule provides whether the qualifications prescribed for direct recruits will apply to promotees.


5. We have carefully considered these arguments.

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We are unable to agree. This argument might have had some  
was  
force if the UPSC / concerned with making promotion, we  
find that in respect of promotion, Col.13 gives the  
authority to the Group 'B' DPC to consider promotion. The  
composition of the DPC is also indicated. The UPSC is  
not represented. Col.14 states, the circumstances in which  
UPSC has to be consulted. Recruitment by promotion is not  
a circumstance requiring such consultation.

6. In the circumstances, UPSC has no role in the  
matter of promotion. If at all anyone can relax the  
qualification for promotees it is only the DPC or the  
appointing authority. They have no such authority under  
the schedule. We are, therefore of the view, that the  
action of the respondents in declaring that the applicants  
are not eligible for promotion as they lack the required  
educational can not be faulted. We find no merit in the  
O.A. It is dismissed at the admission stage.

  
(B.S. Hegde)

Member (J)

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16.2.94  
(N.V. Krishnan)

Vice Chairman (A)