

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 766/94

199

T.A.No.

DATE OF DECISION 8-8-99

(5)

Sh.Mohender Singh & Ors

.....Petitioner

Sh.A.K.Bhardwaj through
proxy counsel Sh.M.K.Bhardwaj

.....Advocate for the
Petitioner(s)

VERSUS

UOI & Ors

.....Respondent

None for the respondents.

.....Advocate for the
Respondents.

CORAM

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

The Hon'ble Shri S.P.Biswas, 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(J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

OA 766/94

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New Delhi this the 6th day of August, 1999.

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Shri S.P. Biswas, Member (A)

In the matter of

1. Mahender Singh
S/O Sh. Karan Singh
resident of No. 2020, New Sarai,
Near Saket, Delhi.
2. Hari Singh S/O Sh. Roop Chand,
resident of WZ-A/3, Puran Nagar,
Gali No. 9, Palam Colony, Delhi.

.. Applicant

(By Advocate Sh. A.K. Bhardwaj,
learned counsel through proxy
counsel Sh. M.K. Bhardwaj)

Versus

1. Union of India through the
Secretary & Technology,
Bharat Mausam Vigyan Bhawan,
New Delhi.
2. The Director General,
Meteorology, Mausam Bhawan,
Lodhi Road, New Delhi.
3. The Assistant Meteorologist (Estt.),
Meteorology Department,
Mausam Bhawan, Lodhi Road, N/Delhi.
4. The Deputy Director General of
Meteorology (Admn. & Stores),
Meteorology Department, Mausam Vigyan
Bhawan, New Delhi.

.. Respondents

(None for the respondents)

O R D E R (OPAL)

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

The applicants are aggrieved by the respondents Office Memo. dated 25.3.94 (Ann.A.1). They have stated that they have qualified in the Limited Departmental Competitive Examination (herein after referred to as 'LDCE') held on 22.7.88 for the posts of Lower Division Clerk (LDC) in the Department of Meteorology and have been empanelled for appointment to the posts of LDC. They are aggrieved that in spite of empanelment of their names the respondents are not appointing them but holding fresh

js.

competitive examination.

2. Admittedly, the applicants had appeared in the LDCE on 22.7.88 against the 10% promotion quota as provided in the Indian Meteorological Department (Group C & D Posts) Recruitment Rules, 1982 as amended/modified from time to time. As mentioned above, the main grievance of the applicants is that in spite of the fact that they qualified in the competitive examination for the post of LDCs held on 22.7.88, they have not been appointed as LDCs, but the respondents have held further a fresh selection and appointed the persons as per this selection. The main contention of the learned counsel for the applicants is that the applicants having ~~been~~ qualified in LDCE in 1988, the respondents could not have denied appointments to them as they had been declared successful, according to the merit list. He has relied on the Ministry of Home Affairs (Department of personnel and Administrative Reforms) O.M. dated 8.2.1982, annexed to the reply of the respondents. He submits that as provided in para 3 of this O.M. there is no limit on the period of validity of the list of selected candidates who had been declared successful in the LDCE and, therefore, the applicants have a right to be appointed and the respondents ought not to hold any further selections for appointment to the post of LDCs till ^{the} ~~this~~ list is exhausted.

3. As none has appeared for the respondents even on the second call, we have seen the reply filed by them as well as ^{the} rejoinder filed by the applicants and heard Shri M.K. Bhardwaj, learned proxy counsel for the applicants. In short, the respondents have controverted the averments made by the applicants by stating that the examination was conducted on the basis of "declared number of vacancies" with respect to the Recruitment Rules under 10% quota. They have also stated that there is no provision for the qualified candidates to be accommodated against the vacancies arising in the subsequent years without holding of another competitive examination. They have also submitted that ~~also~~ four persons who had qualified the LDCE, were appointed against the four vacancies declared under ^{the} 10% promotion quota.

4. We have carefully considered the ^{pleadings and} submissions ^{and} ~~and~~ ^{18.} ~~and~~ ¹⁹ of the learned counsel for the applicants.
paras 3 and 4 of the

5. The relevant O.M. of the Ministry of Home Affairs (DOP&AR) dated 8.2.1982 /read as follows:-

"3 The matter has been carefully considered. Normally, recruitment whether from the open market or through a Departmental Competitive Examination should ^{from} ~~be~~ on only when there are no candidates available from on earlier list of selected candidates. However, there is a likelihood of vacancies arising in future; in case, names of selected candidates are already available, there should either be no further recruitment that the available selected candidates are absorbed or the declared vacancies for the next examination should take into account the number of persons already on the list of selected candidates awaiting appointment. Thus, there should be no limit on the period of validity of the list of selected candidates prepared to the extent of declared vacancies, either by the method of direct recruitment or through a Departmental Competitive Examination.

"4 Once a person is declared successful according to the merit list of selected candidates, which is based on the declared number of vacancies, the appointing authority has the responsibility to appoint him even if the number of vacancies undergoes a change after his name has been included in the list of selected candidates. Thus, where selected candidates are awaiting appointment, recruitment should either be postponed till all the selected candidates are accommodated or alternatively intake for the next recruitment reduced by the number of candidates already awaiting appointment and the candidates awaiting appointment should be given appointments first, before starting appointments from a fresh list from a subsequent recruitment or examination."

6. It is not disputed that there were only four vacancies declared for which LDCE was held in 1988. It is also not disputed that the applicants were in the panel/waiting list of the examination at Serial Nos 2 and 11. However, in view of the fact that four persons who have been successful in the examination have already been appointed under ^{the} 10% quota, we are unable to agree with the contentions of the learned counsel for the applicants that these persons have any enforceable right to be considered against the future vacancies or that the respondents have no power to hold any further examination till they are appointed as LDCs.


7. Para 3 of the OM of M/O Home Affairs (Deptt. of P&AR) dated 8.2.1982 provides "that there would be no limit on the period of validity of the list of selected candidates prepared to the extent

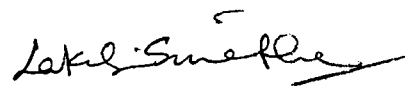
18.

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of declared vacancies but that does not mean that the persons from the waiting list will acquire a right for definite appointments over an indefinite period of time. Therefore, Para 3 of the O.M. will not assist the applicants. Similarly, we find that Para 4 of the O.M. dated 8.2.1982 will also not assist the applicants because, admittedly, there was no change in the declared number of vacancies in the present case and it remained at four, which have been filled by selected candidates. It is settled ^{even} law that if a vacancy exists, a candidate whose name appears in the merit or waiting list on the basis of a competitive examination does not acquire any indefeasible right of appointment (See the judgement of the Hon'ble Supreme Court in Shankar^San Dash Vs. Union of India (1991(2) SLR 779)).

8. For the reasons given above, we find no merit in this case. O.A. is accordingly dismissed. No order as to costs.


(S.P. D'Souza)
Member (A)


(Smt. Lakshmi Swaminathan)
Member (J)

'ok'