

Central Administrative Tribunal  
Principal Bench: New Delhi:

O.A. No. 1255/94  
M.A. 1956/94

New Delhi, this the 7th September, 1994

Hon'ble Shri J.P. Sharma, Member (J)

Hon'ble Shri B.K. Singh, Member (A)

Shri Chandar Singh,  
Mechanic Mechanical  
Govt. of India Press,  
Minto Road,  
New Delhi.

.... Applicant

(By Shri K.B.S. Rajan, Advocate)

Vs.

1. Union of India

Represented by the Secretary,  
Ministry of Urban Development,  
Nirman Bhavan,  
New Delhi.

2. The General Manager,  
Govt. of India Press,  
Minto Bridge,  
New Delhi.

.... Respondents

(By Shri M.M. Sudan, Advocate)

ORDER (ORAL)

Hon'ble Shri J.P. Sharma, Member (J)

The applicant is working as Mechanic since 1968 and undisputedly is the second in the seniority list. The next promotion to the post of Mechanic is Head Mechanic which is filled up according to the recruitment rules by holding D.P.C. The recruitment rules have been filed by the applicant in the aforesaid M.A. (The Govt. of India Presses (Group 'C' and Group 'D' Industrial posts) Recruitment Rules, 1993. The D.P.C. (met on 25.1.94 comprising of Shri P.K. Roy, Chairman, Shri T.R. Capai, Member-Secretary and Shri K.C. Bains, Member. The D.P.C. considered the cases of eligible

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Mechanic including that of applicant and declared panel in which the name of the applicant does not find any mention. Because of this grievance the applicant made a representation to the respondents which was rejected by the impugned order dated 9.2.94 informing the applicant that he could not figure in the selected list due to low merit.

2. The applicant filed this O.A. in June, 1994.

The applicant had prayed for the grant of reliefs that the record of DPC be called for in pursuance of Ministry of Personnel O.M. dated 10.4.89. The relief prayed for is reproduced below:

- (a) The records relating to the DPC for the post of Head Mechanic be called for and the abuse of power and colourable exercise of power be ascertained which would pave way for the applicant to have his legitimate promotion to the post of Head Mechanic. The respondents be directed to conduct review DPC taking into account the provisions of Ministry of Personnel O.M. dated 10th April 1989 and if the applicant is found fit, he be elevated to the post of Head Mechanic.
- (b) The Hon'ble Tribunal may pass such other order or orders as the Tribunal may deem fit to meet the ends of justice.
- (c) The Hon'ble Tribunal may also be pleased to award cost in favour of the applicants and against the respondents.

3. A notice was issued to the respondents and Shri M.M. Sudan appeared for the respondents and opposed the admission of this application. We heard the learned counsel yesterday also and the arguments also commenced today. Regarding the enlistment of the applicant on the bench mark the learned counsel conceded that the applicant

could not make the grade even good for enlistment in the select list. We have also gone through the O.M. dated 10.4.89 and find that the DPC carefully followed the provisions particularly the alleged violation of instruction pointed out by the learned counsel in para 6.3.1 of the said O.M. The applicant was graded as 'Average' while the others good so have been selected on the bench mark 'Good'. The DPC concurred with the A.C.R. perused by them in the said meeting and there is no case for interference by the Tribunal.

4. The other contention of the learned counsel is that the DPC was not regularly constituted. Though the applicant has taken it as a ground only for the grant of relief quoted above i.e. non observance of the O.M. of 10.4.89 by DPC prayed for the relief that the DPC convened by the respondents was against the recruitment rules and as such vitiated the whole selection proceedings for the post of head Mechanic. Thus, the applicant cannot get the relief prayed for. The Tribunal cannot grant the relief which has not been prayed for. The learned counsel for the applicant vehemently argued that it is camouflaged in the body of the application. That will not make any better the case when the constitution of the DPC has not been sought as illegal.

6. However, since we have heard the counsel on this point we are touching the same. The D.P.C. proceedings have been perused and in the said D.P.C. proceedings 3 persons have been associated one of them is the Manager, other is Asstt. Manager and third is outside Member. The learned counsel for the applicant argued that according to recruitment rules the constitution of DPC should be by para 21 of the recruitment rules where for the common categories the Manager, Govt. of

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India Press (Letter Press Unit) and the Manager, Govt. of India Press, Photolitho Unit, Asstt. Manager (Admn.) and outside Member should be associated. The learned counsel for the respondents however by filing a document of 1st March, 1994 regarding the statement showing establishment pointed out that the 'Letter Press Unit' is a dyeing unit and seeing to the advancement in printing media more emphasis is given on the 'Litho printing' which is also a unit in the Govt. of India Press. It is a policy matter to dwindle cadre of 'Letter Press' Unit which is a dyeing cadre and switch over ultimately with the 'Litho Press' Unit. This document also shows that the post of Head Mechanic is in the 'Letter Press Unit'. This fact is not disputed by the learned counsel of the applicant. For the Letter Press Unit, the D.P.C. is to be according to para 13 of the aforesaid recruitment rules which includes Manager, Assistant Manager (Admn.) and Member. In <sup>para</sup> No. 20 'Photolitho Unit' is mentioned and for D.P.C. there should be Manager, Seniormost Deputy Manager, Assistant Manager (Admn.) and outside Member. We have carefully judged the rival contention of the parties, and also gone to the ratio of the judgement H.P. Vora V. Administrator, Dadra Nagar Haveli reported in 1992 3 SLJ, P.118, wherein if the D.P.C. was not regularly constituted that vitiates the proceedings of the D.P.C.

7. In the present case, as said above, there is ~~claiming~~ declaration no relief/regarding illegal constitution of the D.P.C. Secondly the matter has been considered by the respondents by D.P.C. constituted by them under para 13 or para 20 of the recruitment rules. ~~Corum~~ of D.P.C. is complete even if the 4th Member ~~has not~~ participated the proceedings and that of the D.P.C. ~~cannot~~ ~~be~~ vitiate it. From another angle also when the select list has been declared none of

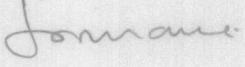
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the persons who have been selected have been impleaded respondents in this case and none can be condemned unheard. The application is dismissed as devoid of merit with no order as to cost.

8. However, the learned counsel again stated that para 21 of the recruitment rules which says for holding of D.P.C. for combined category has not been covered in this judgement. It is not so. We have already covered the various paras regarding holding of D.P.C. and find that para 21 is not applicable to the case of applicant.

  
(B.K. SINGH)  
MEMBER(A)

  
(J.P. SHARMA)  
MEMBER(J)

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