

Central Administrative Tribunal  
Principal Bench: New Delhi

✓ New Delhi 15.5.96.

OA No.1741/94

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Hon'ble Mr A.V.Haridasan, Vice Chairman (J)  
Hon'ble Mr R.K.Ahooja, Member (A)

Manuram  
S/o Bhagirathi  
P.O. Dee District Sultanpur  
U.P.  
(By Advocate: Mrs Rani Chabbra)

...Applicant

Versus

1. Secretary  
Ministry of Communication  
Sanchar Bhavan, New Delhi.
2. General Manager Telecom Rajnagar  
Ghaziabad.
3. Assistant Telecom Manager  
Rajnagar, Ghaziabad
4. SDO Telegraph  
Dadri, Ghaziabad.

..Respondents.

(By Advocate: Sh. M.M.Sudan)

O R D E R (Oral)

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

In this application, the applicant who has been working as Casual Driver since 1990 is aggrieved by the fact that he has not been regularised on that post though the respondents considered him also alongwith those who applied for the post. It is alleged that the respondents have not made a proper selection in as much as somebody who did not fulfil the requisite qualifications has been selected. The action of the respondents in not regularising him on the post of Driver, according to the applicant, is arbitrary and unreasonable and, therefore, the applicant prays that the respondents may be directed to regularise his services as Lorry Dirver with consequential benefits. The applicant has also prayed that the respondents may be restrained from giving effect to the select list made on 30.6.94.

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2. The application is opposed on the ground that the applicant could not be regularised as Driver as he failed in the written test held for recruitment to the 19 posts of Lorry Drivers. The respondents contend that the applicant does not have a right for regularisation.

3. We have heard the learned counsel for the parties and have perused the records. Learned counsel of the applicant stated that the applicant wanted to place on record an additional affidavit in regard to certain facts of the case but since November 1995 the applicant has been taking time for filing the additional affidavit and so far it has not been done. Therefore, this request for further time to file additional affidavit is rejected and we proceed with the case for final disposal.

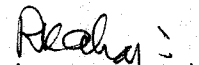
4. The applicant admittedly has been working as Casual Lorry Driver. It is also borne out from the records that the applicant has been granted temporary status. As the post of Lorry Driver is a Group 'C' post to which the scheme for grant of temporary status/regularisation does not apply, the benefit which accrued to the applicant by virtue of conferment of temporary status is only for absorption on a Group 'D' post in his turn. The applicant was considered alongwith those who responded to the notification for selection to the post of Lorry Drivers. In all 19 persons attended the test and only 13 qualified. The applicant was one of those who did not qualify. The applicant seeks to have the list of 13 persons who qualified in the test made inoperative and seeks that he should be regularised on the post. As regularisation is extended to Group 'D' post and not Group 'C' post, the applicant having failed to qualify in the selection process has no right to challenge the select list and for claiming regularisation on the post. An identical question as involved in this case was considered by this

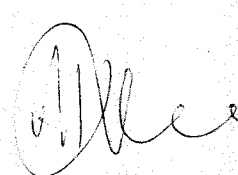
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Bench in Ram Kumar Sharma Vs. UOI in OA No. 742/95 wherein it was held that ' under the circumstances, the casual driver did not have a right to get regularisation but he was only entitled to continue in service so long as work is there and not to be replaced by another casuaal driver.' We are of the considered view that the applicant in this case also is entitled to only that relief.

5. In the light of what is stated above, the prayer of the applicant for making the select list inoperative andd for a direction to the respondents to regularise his services as Driver is not granted. Respondents are directed not to replace the applicant by another casual driver and that if his disengagement becomes necessary, it shall be done only in accordance with the law. If the applicant has by virtue of conferment of temporary status become eligible for regularisation on Group 'D' post, the same shall be granted to him in his turn.

There is no order as to costs.

  
(R.K. Ahooja)  
Member (A)

  
(A.V. Haridasan)  
Vice Chairman (J)

Ashraf