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Central Administrative Tribunal, Principal Bench

O.A.116/2000

M.A.127/2000

New Delhi, this the 6th day of December, 2000

Hon'ble Mr. Kuldip Singh, Member (J)
Hon'ble Mr. M.P. Singh, Member (A)

1. Shri Bharat Lal, aged about 37 years
Senior Technician (Emp.No.21718)
S/o Shri Mangal Sain
R/o F-4/480, Sultanpuri
New Delhi-41

2. Shri Varinder Kumar Grover
aged about 38 years
Senior Technician (Emp.No.
S/o late Shri Dharam Chand
R/o A-1B/94C, Paschim Vihar
New Delhi-63

....Applicants

(By Advocate: Shri Surinder Singh)

Versus

1. Union of India, through

Director General
Akashvani,
Akashvani Bhavan,
Parliament Street,
New Delhi-1

2. The Chief Engineer (North Zone)
Akashvani and Doordarshan
Jamnagar House,
New Delhi

3. The Chief Engineer(T)
Staff Training Institute(Tech)
Akashvani and Doordarshan
Kingsway Camp, Delhi

....Respondents

(By Advocate: Shri R.P. Aggarwal)

ORDER

By Hon'ble Mr. Kuldip Singh, Member (J)

The applicants in this case are working as Senior Technicians. The next promotional post is that of Engineering Assistant. 10% of the said posts are filled in by Limited Departmental Competitive Examination (in short 'LDCE'). The applicants claim that they had appeared in the LDCE in September, 1998.

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However, the respondents have issued promotion orders vide their letter dated 12.8.99 without declaring the result of LDCE conducted in the month of September, 1998. So the applicants have prayed for the following reliefs:

- "(i) Direct respondents to declare result of LDCE of 9.9.98;
- (ii) Direct respondents to accord promotions to the applicants, if they feature in list of successful candidates; and
- (iii) Pass any other order/directions which this Hon'ble Court/Tribunal may deem fit and proper in the facts and circumstances of the case."

2. Respondents are contesting this petition. They have pleaded that earlier one LDCE for the post of Engineering Assistant was conducted by them in the year 1994. The respondents could not declare the result of that examination because there was no sanction of posts against the vacancies for which examination was held. Being aggrieved, some of the candidates filed an O.A. 1240/97 which was allowed with the following directions: some disputes were taken up by some of the candidates

- "(i) Results of 18.12.94 examination be declared, if not already done;
- (ii) Respondents shall initiate action to fill up 27 posts (10% of 265 vacancies) meant for LDCE quota out of the panel prepared or to be prepared on the basis of first examination held in December, 1994;
- (iii) Remaining vacancies, if any, shall be filled up from the panel made out of second examination held on 9.9.98;

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- (iv) If the first panel contains successful officials over and above number of vacancies, then those left over in the first panel and all of successful employees in the second panel shall be utilised against future vacancies keeping the panel alive for longer period for the reasons recorded on file; and
- (v) Promotional orders shall be issued on seniority basis in the respective panels i.e. those in the first panel getting priority over those in the second panel and that too in terms of inter-se seniority of the candidates in either of the panels."

3. Respondents have pleaded that as per the directions of the Tribunal in O.A.1240/97, they were required to fill up 27 posts of Engineering Assistants out of the panel prepared on the basis of examination held in December, 1994 and out of those 27 candidates, only 24 candidates could be promoted and 3 were yet to be accommodated. Therefore, they could not declare the result of LDCE conducted in December, 1998.

4. We have heard learned counsel for the parties and gone through the records.

5. Learned counsel for the applicants submitted that the candidates who had appeared in the LDCE in September, 1998, have a right to know their results but without declaring the results, the respondents have issued promotion orders of different persons which shows that they had resorted to pick and choose policy. So they should be directed to declare the results of the LDCE held in September 1998 and the

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candidates should be promoted on the basis of results of that examination.

6. In reply to this, learned counsel for the respondents submitted that as per judgement given in O.A.1240/97, they were first required to exhaust the panel of 27 candidates who had qualified in 1994 LDCE and until that panel was exhausted, they were unable to declare the results of 1998 LDCE because they wanted to comply with the directions passed in the earlier O.A. Shri Aggarwal also pointed out that the LDCE of 1994 was conducted on the basis of anticipated vacancies but in the meanwhile the age of retirement had been raised from 58 years to 60 years. Therefore the vacancies which had to arise by the retirement of persons on attaining the age of 58 years, did not arise and, therefore, those 27 candidates who had qualified in 1994 examination, could not be promoted earlier. Under these circumstances, the result of 1998 examination was delayed.

7. We have given our thoughtful consideration to the matter. After considering the rival contentions, we find that the difficulties explained by Shri Aggarwal in declaring the results of 1998 LDCE are genuine as anticipated vacancies which had to arise owing to superannuation of incumbents on completing the age of 58 years, did not arise at the relevant time because the age of retirement had been

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raised from 58 years to 60 years. So the programme of department to fill up anticipated vacancies by holding LDCE had been frustrated.

8. However the expectations of the candidates to know their results, are also genuine and they cannot be allowed to remain in an uncertain state for an indefinite period. Now in view of the statement of learned counsel for respondents, out of the panel of 1994 LDCE, only three more candidates are left to be accommodated. So we hope that those three candidates will also be adjusted by March, 2001. Meanwhile, the respondents can declare the results of 1998 LDCE after calculating the vacancies which are likely to arise after the adjustment of three remaining candidates of 1994 panel. We direct the respondents as under:

(i) that they shall exhaust the panel of 1994 LDCE latest by March, 2001 and

(ii) that they shall declare the results of 1998 LDCE as early as possible after calculating the anticipated vacancies and taking into consideration the exhaustion of panel of 1994. In any case, the result of 1998 LDCE shall be declared by 1.2.2001 because by that time, the respondents would be in a position to know as to upto what time


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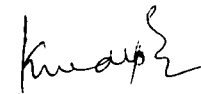
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the remaining three candidates of 1994 panel would be adjusted and how many anticipated vacancies will occur in the following years and would be able to fill up the vacancies as per Recruitment Rules.

9. O.A. stands disposed of with the above directions. No costs.


(M.P. Singh)
Member (A)


(Kuldip Singh)
Member (J)

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