

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1947/2000

Tuesday, this the 2nd day of April, 2002

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri S.A.T. Rizvi, Member (A)

1. C.P.Singh
H.A. C/O Head of Office (Horti.)
11th Floor, MSO
Building, I.P.Estate
New Delhi
2. Rajender Singh
C/O Joint Director (Agri.)
Morigate, Delhi
3. Mahinder Singh
H.A. C/O Head of Office (Horti.)
11th Floor, MSO
Building, I.P.Estate
New Delhi
4. Sant Lal
C/O Joint Director (Agri.)
Morigate, Delhi
5. Mahendra Pal Singh
E.O. (A) C/O B.D.O. Alipur
Delhi
6. Sh. Ved Prakash Sharma
H.A. C/O Head of Office (Horti.)
Delhi
7. J.P.Sharma
E.O.(A), C/O Head of Office (Horti.)
(Plant Protection)
11th Floor, MSO
Building, I.P.Estate
New Delhi
8. R.P.Saxena
SCA c/o Project Officer (IADP)
11th Floor, MSO
Building, I.P.Estate
New Delhi
9. Sh. Jagpal Singh Teotia
E.O. (A) C/O Head of Office
(Plant Protection)
11th Floor, M.S.O.
Building, IP Estate
New Delhi
10. Shri Hari Singh
S.T.A. c/o Seed Testing
Laboratories
Barwala, Delhi

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11. Sh. Harveer Singh Sharma
H.A. C/o Head of Office (Horti.)
11th Floor, MSO
Building, I.P.Estate
New Delhi

12. A.N.Mishra
E.O. (A)
C/o B.D.O. Nangloi,
Delhi

..Applicants

(By Advocate: Shri Arvind Kr. Bakshi)

Versus

1. Govt. of N.C.T. of Delhi
Through Chief Secretary
5, Sham Nath Marg
Delhi-54
2. The Development Commissioner
Govt. of NCT of Delhi
5/9 Under Hill Road
Delhi-54
3. Shri J.P. Sharma
4. Shri Ramji Lal
5. Shri Richh Pal Singh
6. Shri Lal Dev Yadav
7. Shri Tribhuvan Singh
8. Shri Prem Sagar
9. Shri Braham Pal Singh
10. Shri Kishan Pal Tomar
11. Shri Ravinder Singh
12. Shri Arvind Kumar
13. Shri Roop Kishore Sharma
14. Shri Kishan Pal Mann
15. Shri Rajbir Sigh
16. Shri Jitender Kumar Sharma
17. Sh. Horam Singh
18. Shri Raj Pal Singh
all through respondent No.2
the Development Commissioner,
Govt. of NCT of Delhi
5/9 Under Hill Road
Delhi-54.

..Respondents

(By Advocates: Shri Ajesh Luthra for official respdts. &
Shri G.D.Gupta for pvt. respondents)

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O R D E R (ORAL)

Hon'ble Shri S.A.T. Rizvi, Member (A):-

The applicants, twelve in number, working in various capacities, such as Horticulture Assistants, Demonstrator (M), Sericulture Assistants, etc. in the pay grade of Rs.4500-7000/-, are aggrieved by the order dated 5.4.2000 (A-1) passed by the respondents by which the private respondents, sixteen in number, have been regularised in the posts of Horticulture Assistant, Plant Protection Assistant, etc. in the pay grade of Rs.4500-7000/- w.e.f. 27.1.1988 in fifteen cases and from 2.3.1988 in one case, and have prayed that the aforesaid order be quashed and set aside ostensibly on the ground that the applicants' seniority, vis-a-vis the aforesaid private respondents ^{& thereby} stands adversely affected.

2. The facts of the case briefly stated are that the applicants' initially appointed as Village Level Workers (VLW) have been promoted in accordance with the relevant rules from different dates vide orders issued by the respondents on 6.12.1993 (relating to five applicants) and on 16.3.1989 (relating to another five applicants) and by an order dated 1.4.1999 (relating to the remaining two applicants). There is no dispute about their promotion. It appears that against the direct recruitment quota for the aforesaid posts, the respondents approached the Employment Exchange concerned for sponsoring adequate number of names of qualified candidates in 1984. In pursuance thereof, the names of the private respondents were sponsored along with the names of several others, who were rank outsiders. The private respondents had

been working in the respondents' organization as VLWs. The other group of rank outsiders whose names were sponsored will hereinafter be named as 'Yogender Singh group'. This group consists of fifteen persons. After the aforesaid candidates were interviewed, posts were offered to the private respondents as well as to the Yogender Singh group, but this was done on daily wage basis. Since the private respondents were already regularly employed as VLWs, they were not attracted by the aforesaid offer and, therefore, refused to join. The Yogender Singh group candidates were apparently without employment and, therefore, they accepted the offer and came to be appointed as Horticulture Assistants etc. on daily wage basis. Later, in 1987, by an order passed on 8.5.1987 (R-2), the Development Commissioner proceeded to appoint the Yogender Singh group candidates on ad-hoc basis in place of daily wage basis. In view of this, the private respondents made a representation in the matter and later, on 27.1.1988, they were also appointed as Horticulture Assistants etc. on ad-hoc basis. Having appointed the private respondents as Horticulture Assistants etc. on ad-hoc basis, the respondents initiated steps for direct recruitment once again by inviting names of suitable candidates from the Employment Exchange. Since the private respondents had once been selected for regular appointment, though not appointed regularly, they challenged the respondents' action. The Yogender Singh group candidates also challenged the aforesaid action of the respondents along with a few others. Some of the applicants also joined by filing a separate OA challenging the right of the private

respondents to get regularised. All the aforesaid OAs were decided by the Tribunal on 31.5.1990 with the following directions to the respondents:-

- "(i) To hold a fresh viva voce test for all the applicants in the above mentioned four OAs, on a date to be notified by the respondents, after giving adequate time and opportunity to the applicants for making preparations therefore.
- (ii) Relaxation in age, if necessary, will be granted to the applicants on such or them as may require.
- (iii) Since the applicants in OAs No.390/89, 391/89 and 420/89 have been continuously working against the posts in question for considerable length of time though on adhoc basis, the respondents shall, as far as possible, adjust all the applicants from the date of their working/promotion, as the case may be, in the scale of Rs.1400-2300. Due regard shall be given to the observance of the relevant Recruitment Rules, so as to mitigate the grievance of all concerned.
- (iv) If the applicants are found upto the mark in the interview so held by the respondents, their past service would reckon for the purpose of all service benefits, such as pay, seniority, leave and pension etc."

3. In pursuance of the aforesaid order, the respondents fixed 31.8.1990 as the date for holding interview. The private respondents chose not to attend and instead went up to the Hon'ble Supreme Court by filing Civil Appeal No. 686/93 which was dismissed as withdrawn on 8.10.1996. Thereafter, the private respondents filed an Industrial Dispute No.137/97. However, before the aforesaid industrial dispute could be adjudicated upon, the official respondents proceeded to

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grant relief to the private respondents by passing the impugned order dated 5.4.2000.

4. The learned counsel appearing on behalf of the applicants submits that the impugned order has been passed without holding an interview in the manner directed by the Tribunal and is to that extent liable to be set aside. We do not agree. We have already noticed that the private respondents were duly selected in 1984, but the respondents instead of offering regular appointment proposed appointment on daily rate basis which was not accepted by the private respondents. Later, the Yogender Singh group was offered ad hoc appointment by the respondents though that group was also given daily rate appointment. The matter was accordingly agitated by the private respondents, who succeeded in obtaining an order of ad hoc appointment w.e.f. 27.1.1981. By passing the impugned order dated 5.4.2000, the respondents have only regularised their own action. Going by the rule position, after having been interviewed and selected, the private respondents should have been offered regular appointment. This was not done which was a mistake. According to the learned counsel appearing on behalf of the private respondents, the official respondents seek to rectify the aforesaid mistake by passing the impugned order dated 5.4.2000. There is no basis, according to him, for challenging such an action taken by the official respondents even if the private respondents have not been interviewed. In support of the private respondents' case, the learned counsel appearing on their behalf has recalled the case of Yogender Singh group, who had approached the Industrial Tribunal. The

Industrial Tribunal held that the workmen-petitioners (Yogender Singh group) were entitled to be regularised on the posts of Horticulture Assistants etc. from the date of their initial appointment. The candidates belonging to the Yogender Singh group have also not gone through the interview as indicated in the aforesaid order of the Tribunal and, like the private respondents, had gone through the interview only initially in 1984. Therefore, it is not as if the private respondents had not been interviewed at all by a competent body. The award given by the Industrial Tribunal was upheld by the High Court of Delhi. In view of the said position, the private respondents, on par with the Yogender Singh group, cannot be denied the relief of regularisation which, according to the learned counsel, has been correctly given by the impugned order.

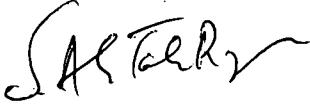
5. The learned counsel has also raised the issue of locus standi of the applicants. According to him, the applicants have been promoted in the regular stream of promotion in accordance with the relevant rules. Their promotions have taken effect from several dates in 1993 etc. as already mentioned. These promotions have not been challenged by the applicants or by anyone else in any manner. They cannot, therefore, challenge the act nor the basis on which those directly recruited have been regularised. We agree.

6. We have considered the submissions made by the learned counsel and having regard to the observations made in the preceding paragraphs, we find ourselves unable to agree with the applicants' contention that the

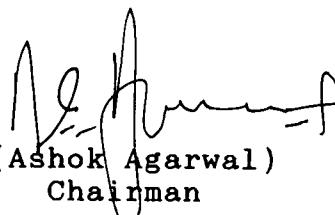
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order dated 5.4.2000 (A-1) regularising the services of the private respondents are defective in any manner and, therefore, deserve to be quashed and set aside. We do not, in the circumstances, find any justification for interfering with the aforesaid orders.

7. In the light of the foregoing, the OA is dismissed without any order as to costs.



(S.A.T. Rizvi)
Member (A)



(Ashok Agarwal)
Chairman

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