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Central Administrative Tribunal
Principal Bench

New Delhi, dated this the 11th September 2001

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

1. O.A. No. 2372 of 2000

Asst. S.I./
Data Entry Operator,
Shri Raghuvender Singh,
No. 27/D, Computer Centre,
Traffic, Delhi. .. Applicant

(By Advocate: Mrs. Avnish Ahlawat)

Versus

1. Union of India through
the Secretary,
Ministry of Home Affairs,
North Block,
New Delhi.
2. Govt. of NCT of Delhi
through the Commissioner of Police,
Police Headquarters,
M.S.O. Building,
New Delhi. .. Respondents

(By Advocate: Mrs. Meera Chhibber)

2. O.A. No. 2235 of 2000

Asst. S.I. (Data Entry Operator)
Kanwaljeet Singh No. 21/D,
S/o Shri Nirmal Singh,
Posted in Computer Centre of
Jt. Commissioner of Police/Crime,
R/o 12-A, South Anarkali Extension,
Krishna Nagar,
Delhi-110051. .. Applicant

(By Advocate: Shri M.K. Gupta)

Versus

1. Union of India through
the Secretary,
Ministry of Home Affairs,
North Block, New Delhi.
2. Govt. of NCT of Delhi,
through its Secretary,
5, Shyam Nath Marg,
Delhi-110054. .. Respondents

(By Advocate: Mrs. Meera Chhibber)

ORDER

S.R. ADIGE, VC (A)

As these two O.As involve common questions of law and fact, they are being disposed of by this common order.

2. In both O.As applicants seek permanent absorption as ASI (Data Entry Operator) (DEO in short) in Delhi Police and a direction restraining respondents from appointing/ permanently absorbing persons to posts of ASI (DEO) from other Departments/Ministries

3. Heard both sides.

4. Admittedly as per relevant Recruitment Rules framed under Article 309 of the Constitution (Annexure IV in OA-2372/2000) recruitment to posts of ASI (DEO) ~~in~~ in the scale of Rs.1320-2040 is to be made 40% by promotion failing which by transfer on deputation, and 60% through direct recruitment. In case of promotion, Key Punch Operators with five years regular service in the grade are eligible, while in case of Transfer on deputation, serving DEOs in the equivalent scale of pay, or Card Punching Operators having served for five years in a Govt/Semi-Govt./autonomous organisation in the scale of Rs.950-1500 or equivalent are eligible.

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5. Pleadings reveal that in 1994, four posts of ASI (DEO) in Delhi police became available for being filled up under 40% promotion/transfer on deputation quota. As no candidate was eligible under promotion quota, respondents resorted to transfer on deputation, for which purpose they issued notice at Ann.R-I to OA-2372/2000 inviting applications for filling up the four posts through transfer on deputation/short term contract. By that notice essential qualifications of

- i) Degree from a recognised University
- ii) Training/experience in handling direct Data Entry Machine of ICL/UPTRON/FCIL/DCL/UMC make, with ability to key in correctly 10,000 key depressions per hour

were prescribed. Constables/Head Constables having five years experience in computer and possessing aforesaid experience certificate were also eligible to apply. ~~where~~ Departmental candidates were asked to apply by 5.9.94. The deputation was for one year in the first instance.

5. It is not denied that in response to the aforesaid notice, applicants in the two O.As both of whom were constables in Delhi Police, submitted their applications, and 13 candidates were called for the Trade Test, written test and interview to judge their suitability through a selection board out of which 11 candidates ^{including applicants} appeared.

6. We have perused Respondents' File No. XIV/94 Part I pertaining to the filling up of the aforesaid four posts of DEO (ASI) in Delhi Police on deputation basis, and reproduce below extracts from the result sheet of written/trade test conducted for the aforesaid posts by respondents in respect of the first four candidates.

Sl. No.	Name of candidate	Key Depression per hour	Marks obtained	Marks obtained in written test	Total
1.	Arun Kapoor	10116	100	13	113
2.	Kanwaljeet Singh (Applicant in OA-2235/00)	8416	80	9	89
3.	Ms. Poonam	8120	80	4	84
4.	Raghuvendra Singh (Applicant in OA-2372/00)	7468	70	12	82

7. From the aforesaid extracts, it is clear that none except Sl. No. 1 was able to achieve the prescribed 10,000 key depressions per hour. However, in the exigencies of work Sl. No. 2, 3 & 4 were also taken on deputation w.e.f. 3.11.95 and their period of deputation was extended from year to year. On 3.11.99, Police Headquarters, Delhi recommended to Govt. of NCT of Delhi for extension of deputation for five years, but GNCT, Delhi conveyed approval only upto 31.3.2000 with the condition that their

deputation period, would not be extended further; and the department should make alternative arrangements.

8. Pleadings further reveal that Police Headquarters, Delhi decided to request GNCT, Delhi again to reconsider their decision in the exigency of work, but as GNCT, Delhi did not accede to the request, it was decided to repatriate Smt. Poonam and applicant Raghuvendra Singh, vide order dated 3.11.2000 (Ann. R-11). While in case of applicant Shri Kanwaljit Singh, GNCT, Delhi was again requested to extend his deputation period for the 6th year but that request has been rejected by GNCT, Delhi on 18.1.2001. While Ms. Poonam^{is} reported to have joined her substantive rank, applicant Shri Raghuvendra Singh is stated to have proceeded on leave to avoid implementation of the repatriation order dated 3.11.2000.

9. Ms. Poonam had filed O.A. No. bearing No. 894/2001 assailing the aforesaid order dated 3.11.2000 and claiming similar relief of absorption or continuance in her post on deputation, but that O.A. was summarily dismissed^{by order d 11.4.2001 (copy taken on record)} holding that applicant could not claim absorption or continuance in her post on deputation, more so as the repatriation order in her case already stood implemented.

10. The question for ^{adjudication} ~~deputation~~ is whether applicants who admittedly are deputationists from within the department, have an enforceable legal right

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to compel respondents to absorb them permanently as ASI (DEO). Nothing in the recruitment rules, which as mentioned earlier, have been framed under Article 309 of the Constitution, permits deputationists to be so absorbed. It is also clear that the 11 candidates who appeared in the test conducted by the Selection Board were tested as to whether they were able to achieve the prescribed yardstick of 10,000 key depressions per hour, and neither of the two applicants was able to achieve the same. In the pleadings as well as during hearing, it was contended on behalf of applicants that they were not tested in respect of this particular yardstick namely ~~namely~~⁷ their ability to key in correctly 10,000 key depressions per hour, but the extracts of the result sheet contained in para 6 above disprove this contention of applicants.

11. During hearing, applicants' counsel Mrs. Ahlawat relied upon Para 1.2 read with Para 7.1 of Chapter 18 of Swamy's Manual on Establishment and Administration on the subject of Recruitment by Transfer/Deputation. These paras relate to cases when the field of promotion consists of only one post and where the departmental officer holding the feeder post is to be considered along with outsiders who have applied for appointment by transfer on deputation. In such a case, if the departmental candidate is selected for appointment, the post is to be treated as filled by promotion. Otherwise the post is filled by deputation/contract. In other cases when the field of promotion is adequate i.e. there

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are adequate number of posts in the feeder grade, promotion is provided as the first method or a certain percentage of vacancies is earmarked for promotion, and a certain percentage of vacancies is earmarked for appointment by transfer on deputation or by direct recruitment.

12. From these paragraphs it cannot be argued, ~~and~~ as Mrs. Ahlawat has tried to, ~~say~~ that because no one was eligible in the feeder grade for promotion as ASI (DEO), the case of applicants who came on deputation from within the department, has to be treated as one of promotion. Such an interpretation would be a complete misreading of the import of the aforesaid paras. In any case neither applicant was successful in achieving the prescribed yardstick of 10,000 correct key depressions per hour.

13. Applicants' counsel have also relied upon the Tribunal's order dated 2.4.92 in O.A. No. 353/90 S.I. Randhir Singh Bhardwaj Vs. Delhi Administration and others, but unlike that case, in the two O.As before us applicants did not possess the prescribed essential eligibility qualifications of being able to correctly key in 10,000 depressions per hour, as is clear from the test results extracted in para 6 above.

14. It is well settled that a deputationist has no vested right to be permanently absorbed in a department or to a post to which he has been sent on deputation. Under the circumstances the O.A.s

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warrants no interference. ~~The~~ ~~are~~ dismissed. Interim orders, if any are vacated. No costs.

15. Let copies of this order be placed in both O.A case records.

(Dr. A. Vedavalli)
Member (J)

(S.R. Adige)
Vice Chairman (A)

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