

(18)

Central Administrative Tribunal  
Principal Bench: New Delhi

O.A. No. 987/2000

New Delhi this the 28th day of September, 2001

Hon'ble Mr. Justice B. Dikshit, Vice-Chairman (J)  
Hon'ble Mr. V.K. Majotra, Member (A)

1. Jagmender,  
S/o Shri Maha Singh,  
R/o House No.2A,  
Village Ouchandi, Delhi.
2. Shri Surender Kumar,  
S/o Shri Ved Ram,  
R/o Room No. 9, Old Cvl Suy.,  
Tis Hazari Courts, Delhi.
3. Shri Naresh Kumar,  
S/o Shri Hoshier Singh,  
R/o 318, Nibam Pur, Delhi.
4. Shri Virender Singh,  
S/o Shri Makhan Lal Yadav,  
R/o 26, Canal Calony,  
3 Underhill Road,  
Civil Lines, Delhi.
5. Shri Davender Singh,  
S/o Shri Ved Singh,  
R/o 210, Village Jatkhod,  
Delhi-39.

-Applicants

(By Advocate: Shri Prashant Sharma, proxy for  
Shri V. Shekhar)

Versus

1. Government of National Capital Territory of Delhi.  
Through  
Lt. Governor,  
Raj Niwas Marg,  
Delhi.
2. Delhi Subordinate Service Selection Board,  
Through its Secretary  
U.T.C.S. Building,  
Behind Karkardoma Court Complex,  
Viswas Nagar,  
Shahdra, Delhi-110 032.

-Respondents

(By Advocate: Shri Vijay Pandita)

ORDER (Oral)

By Mr. V.K. Majotra, Member (A)

The applicants have challenged the selection for

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the posts of Patwari undertaken by respondents in pursuance of advertisement Code No.64/98 dated 6.8.1998 alleging arbitrariness and illegality. They have stated that their representations were rejected and the results declared on 20.12.99 did not indicate the merit of the selected candidates. It has further been stated that whereas the eligibility of candidates for the post of Patwari was matriculation and Patwari Training Completion Certificate, the aforesaid advertisement had stated that candidates who had not passed the Patwari training shall be recruited provisionally and would have to clear the training within one year of the appointment. The applicant had taken exception to supersession of the provision in Rules regarding eligibility for the post of Patwari by Administrative instruction i.e. the advertisement. The OA was decided vide order dated 9.1.2001 with the following observations/directions:-

"Having regard to the reasons and discussion made above we allow the OA and hold that the notification dt. 6.8.1998 is contrary to the Rules of 1992 and therefore quash and set aside the same. Consequently, selection to the post of Patwari as per the declaration of the result dt. 20.12.99 is also set aside. We direct to the respondents to hold afresh selection for the post of Patwari in accordance with the relevant rules, within a period of three months from the date of communication of this order, allowing the applicant and also the former candidates to appear in the same if they are eligible under the relevant rules. No costs".

2. Later on, respondents have filed review application 195/2001 seeking review of the order dated 9.1.2001 in OA-987/2000. The review petitioners, i.e. respondents herein, stated that they were not in a position to produce the notification of February, 1978



(Annexure RA-6) despite their best efforts and that the same <sup>-e lb</sup> ~~having~~ been procured by them from the Archeological Department. Review of the aforesaid order of the Tribunal was being sought while Notification dated 20.3.1978 whereby the Rule 3 of Delhi Land Revenue Rules, 1962 (hereinafter referred to as 'Rules of 1962') was deleted and Rule 4 relating to appointment and qualifications of Patwari was substituted among other amendments. The review application was allowed and the OA was restored to its original number and fixed for re-hearing. The original interim order that pending further orders, appointment if made in pursuance to the selection, would be subject to further orders to be passed was also restored.

3. Shri Prashant Sharma, learned proxy counsel of the applicant stated that the main counsel due to personal difficulty has not come present and the case be adjourned. We <sup>did lb</sup> ~~are~~ not agree to the request of the learned proxy counsel and have asked him to argue out the case himself if he wished. We have proceeded in terms of Rule-15 of CAT (Procedure) Rules, 1987.

4. We have considered the pleadings on both sides, the material on record and heard the learned counsel of the respondents Shri Vijay Pandita.

5. It has been stated in the OA that advertisement Code No.64/98 had stated that the candidates who had not passed the Patwari training shall be recruited provisionally, and would have to clear the training

within one year of the appointment and objection has been made to supersession of the provision in Rules regarding eligibility for the post of Patwari by Administrative instruction i.e. the advertisement. It has been contended that under Rule 3 of the Delhi Land Revenue Rules, 1992 the Deputy Commissioner has to maintain the list of candidates who have passed the Patwari School Examination and that the recruitment on the post has to be made from that list. The applicant has sought quashing and setting aside of the notification dt. 6.8.1998 being ultravires and contrary to the Rules of 1962 and also of the selection to the post of Patwari based on the results dt. 20.12.1999 and also sought a direction to the respondents to hold selection afresh, in consonance with the aforesaid rules.

6. The learned counsel of the respondents contended that vide notification dated 20.3.1978 Rule-3 of the 1962 Rules was deleted and for the existing rule-4, the following rule was substituted:-

"4(1) Appointment and qualifications  
Whenever a post of Patwari falls vacant, the Deputy Commissioner shall, after giving due publicity, invite applications from candidates who are:

(a) (i) no less than 18 years of age and not more than 25 years of age on the date specified in the advertisement; and

(ii) passed Matriculation or equivalent examination by any recognised University/Board.

Note:- In special cases, the Appointing Authority may relax the upper age limit and educational qualifications.


(b) a citizen of India;

(c) domicile of the Union Territory of Delhi".

7. He stated that in this manner, the eligibility condition prescribed by Rule-3 of 1962 Rules was changed and candidates having matriculation or equivalent examination certificate were made eligible for consideration for selection for the post of Patwari.

8. In terms of new Rule-4(i), there are only two conditions making a candidate eligible for consideration for the post of Patwari: i) that he should be between the age of 18 and 25 years on the date specified in the advertisement and ii) that he should have passed Matriculation or equivalent examination by any recognised University/Board. The earlier Rule relating to the requirement of Patwari training completion certificate having been deleted in the new rules as stated above, the objection of the applicant that the respondents have proceeded with selection for the post of Patwari on the basis of prior passing of Patwari School Examination does not hold good. In view of the new rule, even such candidates who do not possess Patwari Training completion certificate and have matriculation certificate are eligible to participate in the selection in question.

9. In the facts and circumstances of the case and discussion made above, we do not find any infirmity in the selection undertaken by the respondents for the post of Patwari on the basis of advertisement dated 6.8.98. Accordingly, the OA is dismissed being devoid of merit. No costs.

  
(V.K. Majotra) 28.9.2001  
Member (A)

B. Dikshit  
(B. Dikshit)  
Vice-Chairman (J)

cc.