

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. OA-447/89  
T.A. No.

1989.

DATE OF DECISION 12.5.1989

Shri Gopi Ram III & Ors. Petitioner

Mrs. C.M. Chopra, Advocate for the Petitioner(s)

Versus

U.P.S.C. & Ors. Respondent

Mrs. Raj Kumari Chopra. Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P. Srinivasan, Administrative Member.

The Hon'ble Mr. T.S. Oberoi, Judicial Member.

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

MGIPRRND-12 CAT/86-3-12-86-15,000

( T.S. Oberoi )  
Member(J)

( P. Srinivasan )  
Member(A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

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Regn.No.OA-447/89

Date of Decision. 12.5.89.

Shri Gopi Ram III & Ors.

.... Applicants.

Versus

U.P.S.C. & Ors.

.... Respondents.

For the applicants.

.... Mrs. C.M.Chopra,  
Advocate.

For the respondents

.... Mrs. Raj Kumari Chopra,  
Advocate.

CORAM: Hon'ble Shri P. Srinivasan, Administrative Member.  
Hon'ble Shri T.S. Oberoi, Judicial Member.

JUDGEMENT (ORAL)

(Judgement of the Bench delivered by Hon'ble  
Shri P. Srinivasan, Administrative Member).

This application, filed under Section 19 of the Administrative Tribunal Act, 1985, has come up before us today for admission with notice to the respondents. There are nine applicants in all. They have also made an application registered as MP-466/89 seeking permission to make a joint application in terms of Rule 4(5)(a) of the Central Administrative Tribunals (Procedure) Rules, 1987. We have perused the application and we find that their grievance is based on a matter of principle which is common to all. We, therefore, allow MP-466/89 and permit them to file a single application.

2. Mrs. C.M. Chopra, learned counsel for the applicant and Mrs. Raj Kumari Chopra, learned counsel appears for the respondents and both of them have been heard.

3. We feel that this application can be disposed of at this stage itself after having heard the learned counsel for both sides. All the nine applicants before us who were working in Class 'D' posts in the U.P.S.C. were appointed as Mechanical Operators (M.O.) on adhoc basis for the first time sometime in February, 1986. Prior to

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their appointment in that capacity, the UPSC issued a circular conveying its decision to fill up 8 vacancies in the Grade of M.O. on adhoc basis and calling upon regular Group 'D' employees having the requisite qualifications, which were also set out in the circular, to submit their application for the post with complete bio-data. This circular was issued on 13.6.1985 and thereafter, the applicants and presumeably other group 'D' employees were called to take a practical test which was held on 2.1.1986. On the basis of the results of the practical test, the 9 applicants before us were selected for appointment, purely on adhoc basis and the officers under whom they were working were requested to relieve them. Thereafter, they were given adhoc appointment for a short period which was renewed from time to time. In this way, they were working as adhoc M.Os. from 7.2.1986 to 28.2.1989 with short breaks here and there. On 20.2.1989, the respondents, namely, UPSC issued a circular announcing their intention to fill up 17 posts of M.Os. on regular basis by direct recruitment. The eligibility conditions were same as those announced when the applicants were appointed to the same post on adhoc basis. The circular, inter alia called upon regular Group 'C' and 'D' employees in the Commission who satisfied the eligibility conditions to submit their applications by a date in March, 1989. We understand that the test to be conducted in this connection has not yet been held. No date has been announced so far. The grievance of the applicants is that they having been selected even though on adhoc basis as M.Os. in 1986, after having been subjected to a practical test and having worked in that post for about 3 years intermitently, they should not be compelled to undergo another test for regular appointment.

4. Smt. C.M. Chopra, learned counsel for the applicants submitted, relying on the judgment of the Supreme Court in

*P. S. Chandra*

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Gainda Ram & Ors., Vs. M.C.D. & Ors., 1988(2) SLR 327(SC), that by virtue of having worked in the post for a long time the applicants constituted a separate class who could claim regular appointment without undergoing a test while others may be obliged to take that test. Though, the applicants were not in the first instance sponsored by the employment exchange when they were employed as M.Os. on adhoc basis, that should not stand in the way of their being considered for regular appointment without undergoing a test.

5. Mrs. Raj Kumari Chopra, learned counsel for the respondents strongly resisted the claim of the applicants. She submitted that the test which the applicants took in 1986 could not be compared with the test that was to be held now, because the test which they took was not open to members of the public. It was confined to Group 'D' officials of the Commission and was therefore, a limited test. On the other hand, the respondents had the right to select the persons most suitable for the job by way of direct recruitment and for doing so, they could invite applications from outsiders and select the best in the competitive test to be held. The appointment of the applicants was purely on adhoc basis and no assurance was given to them that they would continue to hold the posts indefinitely. On the other hand, their appointments were to last only till regular appointments could be made. Out of the 9 posts to which the applicants were appointed, 6 posts, according to Mrs. Raj Kumari Chopra, were short-term posts and the question of regular appointment to these posts did not arise. Now that the respondents have identified 17 posts to be filled up on regular basis, they had every right to consider not only the applicants

P. S. Singh

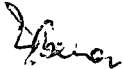
but also others who are suitable for appointment. If the applicants wanted to be appointed to the post of M.O. on regular basis they had to take the test along with others and qualify therein. They had no vested right for regular appointment as a matter of course without taking the selection.


6. We have considered the matter carefully. We agree with Mrs. Chopra, learned counsel for the applicants, that the applicants having worked for three years as M.O.<sup>M</sup> deserved some consideration in the matter of regular appointment to that post. At the same time, we must also notice that their initial appointment was indeed on adhoc basis reviewed from time to time. The respondents have to make regular appointments to the 17 vacancies now existing by direct recruitment and not by promotion. For this purpose, they are entitled to invite applications from outsiders also and to hold a competitive examination to select the most suitable persons. While saying so, we must not overlook the fact that the applicants have been working in the post for three years and would have acquired some expertise in the job. Their cases cannot be considered on the same footing as others who have not so far worked in that post. In view of this, ~~while~~<sup>as</sup> we do not wish to restrain the respondents from holding a competitive test as they propose to do. They may do so. We would also direct the applicants to appear in that test. We would further direct the respondents to give the applicants a certain amount of weightage by way of marks for the three years of service they have already rendered taking into account the quality of their work and, other things being equal, give the applicants preference in regular appointment. With these directions the application is disposed of at the admission stage itself leaving the parties to bear their own costs.

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A copy of this order be handed over to the learned counsel  
for both parties immediately.

  
( T.S. Oberoi )  
Member (Judl.)

  
( P. Srinivasan )  
Member (Admn.)