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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

O.A. NO.352/88.

Date of decision: 7.7.1993.

Sumer Chand.

Petitioner.

Versus

Union of India & Ors.

Respondents.

CORAM:

THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
THE HON'BLE MR. S.R. ADIGE, MEMBER(A).

For the Petitioner.

Shri K.L. Bhatia,
Counsel.

For the Respondents.

Shri M.L. Verma,
Counsel.

JUDGEMENT(ORAL)

(By Hon'ble Mr. Justice V.S. Malimath, Chairman)

The petitioner, Shri Sumer Chand, holds the post of Staff Car Driver in the establishment under the Delhi Milk Scheme. In this application, he has prayed for issue of a direction to appoint him to the Selection Grade of the Staff Car Driver w.e.f. 1.8.1976 and to grant him consequential and incidental benefits flowing from the same. There was no Selection Grade for the cadre of Staff Car Drivers. On 10.1.1977, an order was passed by the Government, a copy of which is produced as Annexure-II, providing for creation of Selection Grade posts for the 'C' and 'D' cadre employees in the Ministry/Department w.e.f. 1.8.1976. By a subsequent order made on 16.9.1978, produced as Annexure-III, the benefit of the earlier order was extended to the Staff Car Drivers of the attached offices as well. The other order which requires notice

is that of 22.2.1980, a copy of which was placed before us by Shri Verma, learned counsel for the respondents during the course of the arguments. The manner in which the Selection Grade has to be introduced is the subject matter of this order. Paragraph 2 of the order which is relevant for our discussion is extracted as follows:

"The question as the manner in which selection grade has to be introduced in Subordinate offices in the cadres of Staff Car Drivers/Despatch Riders has been considered in consultation with the Ministry of Finance and it has now been decided to extend the application of the orders mentioned in para 1 above to subordinate offices also. The introduction of Selection Grades for the Staff Car Drivers and Despatch Riders may be done on a centralised basis by the Ministry/Department administratively concerned. (Underline is ours) It is likely that certain Subordinate offices might have already introduced selection grades in these cadres on the basis of the general orders issued by the Ministry of Finance dated 10.1.1977. Their cases may not be disturbed adversely".

This order makes it clear that the sanction of selection grade post is required to be made on centralised basis by the Ministry/Department administratively concerned, which has to include the Staff Car Drivers in the Subordinate Offices concerned as well. This was followed by the order made on 25.7.1985, a copy of which has been produced by the respondents as Annexure 'C' along with the reply. The subject of the said order is Delhi Milk

✓ Scheme - Selection Grade for the various Group 'C' and 'D'

posts. For the sake of convenience, we extract the order as follows:

"With reference to the correspondence resting with your letter No.12-26/83-Estt.(Spl.), dated the 23rd February, 1985 on the subject mentioned above, I am directed to convey the sanction of the President to the conversion of following Selection Grade posts in the scale of pay as indicated below:

Designation & No. of sanctioned post.	Scale of pay	No. of S.G. posts	Scale of pay for Selection grade
Staff Car Drivers (No. of sanctioned posts(18)	Rs.260-350	4	Rs.320-8-360-EB-370- 10-400.

2. The selection grade will take effect from the date of sanction of this Order. The sanction issues with the concurrence of Department of Personnel and Training vide their U.O. No. 1439/85-E.(D), dated the 2nd May, 1985 and Ministry of Finance, Department of Expenditure vide their U.O. No. 1943-E.III/85, dated 31st May, 1985 and Finance Division of this Ministry vide their U.O. No.-2889/FA/85, dated the 18th July, 1985".

It is in pursuance of this order that the Staff Car Drivers under the Delhi Milk Scheme were granted Selection Grade w.e.f. 25.7.1985. The petitioner made a representation to the effect that when Staff Car Drivers in all the Ministries/Departments have been sanctioned Selection Grade w.e.f. 1.8.1976, there is no justification for granting the Selection Grade to the petitioner; a Staff Car Driver, from a much later date, i.e. w.e.f. 25.7.1985. The representation

having been rejected, the petitioner has approached this Tribunal for relief, as aforesaid.

2. The principal contention of Shri Bhatia, learned counsel for the petitioner, is that the introduction of the Selection Grade for the benefit of Staff Car Drivers was the subject matter of general decision by the Government which decided that such a benefit should be available w.e.f. 1.8.1976. He also submitted that Staff Car Drivers in Ministry/Department and the subordinate offices have all been granted Selection Grade w.e.f. 1.8.1976 and it is only the four persons who have been granted Selection Grade in the Delhi Milk Scheme in pursuance of the order dated 25.7.1985. This, according to him, apart from being unjust and unreasonable, is also violative of Articles 14 and 16 of the Constitution.

3. In the reply filed by the respondents, the stand taken by them in this behalf, as stated in paragraph 9.2. is as follows:

"Staff Car Drivers are not governed by Ministry of Finance O.M. No. dated 10.1.77. However, as already stated that the Selection Grade in the Staff Car Drivers Cadre was to be introduced on a centralised basis vide O.Ms dated 16.9.78 and 22.2.80 referred to in Para 6.3 above. The question of relaxation of the provisions of O.M. dt. 22.2.80 was carefully considered and Selection Grade was sanctioned w.e.f. 25.7.85 in the Staff Car Drivers Cadres in DMS in relaxation of the orders referred to above".

This is the only answer which has been put forward by the respondents in support of their case that the grant of Selection Grade to the petitioner w.e.f. 25.7.1985 and not w.e.f. 1.8.1976 is fully justified. We have, therefore, to examine as to whether the grant of Selection Grade to the petitioner w.e.f. 25.7.1985 is worthy of acceptance or not. From the orders dated 10.1.1977, 16.9.1978 and 20.2.1980 relied upon in this behalf, referred to above, it becomes clear that the benefit of Selection Grade to Staff Car Drivers was required to be given on centralised basis. The concept of centralised basis conveys that all Staff Car Drivers irrespective of the unit where they are working have to be grouped together and there will be a combined seniority list for the purpose of making selection of persons qualified. The order dated 22.2.1980 in express terms states that the Selection Grade, benefit of which has been extended to subordinate offices such as Delhi Milk Scheme, has to be worked out on a Centralised basis by the Ministry/Department. In other words, the clear effect of the order dated 22.2.1980 is that the Selection Grade has to be given on a Centralised basis and not on the unitwise basis. If nothing more is to be said of the case and the matter rests with the order dated 22.2.1980, it would mean that the Staff Car drivers

under the Delhi Milk Scheme had to be considered along with the Staff Car Drivers of the Ministry/Department concerned. The number of posts of Selection Grade had to be taken into account in the Ministry/Department. A combined seniority on a centralised basis had to be drawn and the selection made on the basis of merit among them. This gives us the reason for stating in paragraph 9.2 of the reply that it became necessary to grant relaxation for the purpose of granting selection grade to the Staff Car Drivers of the Delhi Milk Scheme. The Staff Car Drivers of the Delhi Milk Scheme were undoubtedly entitled to the benefit of Selection Grade having regard to the order passed on 22.2.1980, referred to above. Then, they had to take their chance along with other Staff Car Drivers working in the Ministry/Department concerned. There is no exclusive allotment of Selection Grade post possible under the order dated 22.2.1980 for the Staff Car Drivers of the Delhi Milk Scheme. What has been done by the order dated 25.7.1985 is to give special treatment to the Staff Car Drivers of the Delhi Milk Scheme by creating four posts among the 18 posts of the Staff Car Drivers in the Delhi Milk Scheme as Selection Grade post. In other words, the Staff Car Drivers of the Delhi Milk Scheme do not have to compete with the Staff Car Drivers of the Ministry/Department. It is obviously with a view to grant benefit so far as the Staff Car Drivers of the Delhi Milk Scheme are concerned, that a special order came to be made on

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25.7.1985 treating the Staff Car Drivers as a separate unit and sanctioned four posts among 18 posts exclusively for Staff Car Drivers of the Delhi Milk Scheme. This is the deviation which has been brought about. This was not contemplated by order dated 22.2.1980 as it speaks of sanction of selection grade posts on centralised basis. It is, therefore, stated in paragraph 9.2 of the reply that the relaxation of the order dated 22.2.1980 was made in order to grant four selection grade posts exclusively for the Staff Car Drivers under the Delhi Milk Scheme. Obviously, on the basis of order dated 22.2.1980 no staff car driver under Delhi Milk Scheme was able to get selection grade. Hence, an attempt was made to give to the Staff Car Drivers of the Delhi Milk Scheme 4 exclusive posts of selection grade for them. As this benefit was given after relaxing the general order dated 22.2.1980, there is nothing wrong in giving the benefit from the date of this order. While granting special concession so far as the Staff Car Drivers of the Delhi Milk Scheme are concerned, the benefit was limited only from the date of order made after relaxation of the earlier order. In these circumstances, it is not possible to hold that the decision of the Government is arbitrary and violative of Articles 14 and 16 of the Constitution. An argument was advanced by Shri Bhatia that in many posts under the Delhi Milk Scheme Selection Grade was provided much earlier while it was denied to the Staff Car Drivers of the Delhi Milk Scheme. Though there is no specific denial of this averment in the reply

filed by the respondents, it is necessary to point out that it is not the case of the petitioner that any other Staff Car Driver under the Delhi Milk Scheme was granted benefit of Selection Grade w.e.f. 1.8.1976. The averment is in general terms which refers to many posts under the Delhi Milk Scheme. The names and particulars of persons to whom such benefit was granted have also not been given. The vague and general averment cannot be taken into account. Hence, it is not possible to accede to this contention as well.

4. For the reasons stated above, this petition fails and is dismissed. No costs.

S.R. Adige
(S.R. ADIGE)
MEMBER(A)

V.S. Malimath
(V.S. MALIMATH)
CHAIRMAN

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