

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 99/1988 198
T.A. No.

DATE OF DECISION 19.1.1990.

Shri Paramjeet Singh Chhillar Applicant (s)

Shri Shyam Babu Advocate for the Applicant (s)

Versus

Delhi Admn. & Ors. Respondent (s)

Shri B.R. Prashar Advocate for the Respondent (s)

CORAM :

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

The Hon'ble Mr. I.K. Rasgotra, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*
2. To be referred to the Reporter or not? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

(delivered by Hon'ble Shri I.K. Rasgotra, Member (A))

The applicant working as Sub-Inspector/Supervisor (Technical) is aggrieved by the impugned order dated 23.10.1986 (page 48 of the paper book) of the Deputy Commissioner of Police Headquarters-^{substantive} I, Delhi reverting him to his ^{of} rank of Assistant Sub-Inspector (Radio Technician) w.e.f. 22.10.1986 and subsequent order dated 30.12.1986 promoting him to officiate as Sub-Inspector (Supervisor Technical) w.e.f. 30.12.1986 on the basis of the promotion list (page 49 of the paper book) subject to the condition that he shall pass Grade-I (Radio Technician) course conducted/approved by DCPW within a period of three years from the date of his ^{of} promotion otherwise he will be reverted to his substantive rank of Asstt. Sub-Inspector (Radio Technician). Consequently, he has filed this application under Section 19 seeking the following reliefs:

- (a) Declare the applicant fit for promotion to the post of Inspector Communication (technical) and direct the

respondents to promote the applicant w.e.f. 24.12.1986 when seven persons junior to him were promoted (page 56 of the paper book),

(b) Declare that Grade-I examination passed by the applicant in November, 1967 is equivalent to Grade-I examination of DCPW and to allow him the consequential benefits.

(c) Quash the impugned orders dated 23.10.86, 30.12.86 & 16.10.81 (pages 48, 57, and 45 of the paperbook).

2. The applicant was due to be reverted to his substantive rank of ASI but since final hearing of the case was concluded on 22.12.89, the respondents were directed not to revert the applicant till the pronouncement of the judgement.

3.1 The facts of the case are that the applicant after his retirement from the Army was enlisted as Asstt. Sub-Inspector (Radio Technician) in Delhi Police w.e.f. 23.8.68 (FN) in the scale of Rs-150-10-250-10EB-10-290-15-335-EB-380. According to the schedule attached to Rule 12.3(b) page 39 of the paper book Asstt. Sub Inspectors (Radio Technician) are automatically allowed to wear badges of Sub-Inspector after they cross the stage of Rs.170/- in the pay scale of Rs.150-380 and are designated as Sub Inspectors. The Asstt. Sub-Inspectors (Radio Technician) are also eligible for proficiency pay of Rs.20/- and Rs.40/- per month on passing Grade-II and Grade-I proficiency tests of Radio Technician respectively of Radio Technicians conducted/approved by the Directorate of Coordination (Police Wireless). The applicant after joining as Asstt. Sub Inspector appeared and qualified in Grade-II test of DCPW in January, 1974 (Page 101) and is drawing proficiency pay of Rs.20/- per month. He appeared for the Grade-I test in February, 1981, April, 1982 and 1984 vide pages 102, 103, & 105 of the paper book but failed to qualify in Grade-I Examination.

3.2 The applicant's ~~xxx~~ ^{now} contention/is that he had qualified in Gr.I Radio Mechanic Examination conducted by Commandant, 1, STC at 2, Army Quarters and that qualification is equivalent to Grade I examination of DCPW.

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This contention is based on the acceptance of the recommendation No.15.29 of the High Level Committee. The relevant portion of the recommendation is extracted below:

"15.29 the equation of military qualification trade and professional experience with civil trade must be done on a continuous basis so that ... To ensure that three equations are up-to-date they should be reviewed periodically.... The State Govt. should also automatically adopt these equations for the purpose of employment under the State Government and their public sector undertakings."

3.3 It has been further contended that the recruitment rules only prescribed qualifications as Radio Technician Gr.I/Gr.II. It has nowhere been stated in the recruitment rules that the special qualifications of Radio Technician Gr.II/Gr.I should be from the Directorate of Coordination (Police Wireless). Since the statutory rules do not make any such provision, the respondents cannot compel the applicant to appear in the Radio Technician Gr.I test conducted by the DCPW.

4. The learned counsel for the respondents has however submitted that the equation of military qualifications with those obtaining in the civil side has been accepted by the Ministry of Home Affairs for the purpose of employment of Ex-Serviceman. In this connection we were shown the "Directory of Equation of Service Trades with Civil Trades and Guide to Registration of Defence Service Applicants for Employment" issued by the Directorate General of Employment and Training Ministry of Labour, Govt. of India for the perusal of the Court.

4.1 The learned counsel for the respondents further added that the Directory of Equation does not in any way compromise the need and the right of the employing department to subject its employees to the prescribed qualifying examination for maintaining high standard of efficiency. He further added that requirements in the civilian employment are different from those obtaining in the Armed Forces and it was therefore essential that the departmental

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(12)

examinations are passed by the applicant for further progression.

No objection was raised by the applicant in 1974 when he appeared for Gr.II test of DCPW and qualified therein. He also did not raise any objection or protest when he appeared in Radio Technician Gr. I test of DCPW in 1981, 1982 & 1984. The learned counsel conceded that admittedly the Radio Technician Gr.II/Gr.I test alone is mentioned in the recruitment rules but it was for the Department to define the examination to enable the employees to acquire the relevant skills to measure up to the requirements of the job in the interest of administrative efficiency.

5. We have heard the learned counsel of both the parties and perused the record carefully. The facts of the case are that the Directory of Equation of Service Trades with Civil Trades is meant to assist the service personnel find slots in civilian employment. In fact, the first paragraph of the Foreward to the Directory written by Director General Re-settlement reads as under:

"The Directory of Equation is a compilation of great significance aiming to be an all time guide to Employment Exchanges and Zila Sainik Boards in helping them identify equivalent civilian post for Ex-Servicemen seeking re-employment, thus facilitating their registration". It is further stated in the office memorandum No.DGET-C 30018(22)/85-EE-I issued by the Ministry of Labour, November, 1985 reproduced on the second page of the Directory that:-

"All Employment Officers are requested to make use of this Directory for registering Ex-Servicemen in appropriate trades accurately for meaningful submission of Ex-Servicemen against reserved vacancies....".

6. It is, therefore apparent that the equations of service trades with civil trades is for the purpose of registration with the employing agencies to find suitable placement for the Ex-Servicemen in the civilian employment. We are ^{therefore} not inclined to agree with the contention of the learned counsel of the applicant that the Gr.I qualifications acquired by the applicant in the

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Armed Forces exempt him from passing Radio Technician Grade I/ Grade II test of DCPW.

7. Further, it is observed that the Recruitment Rules prior to the implementation of the amended Recruitment Rules, vide extraordinary Delhi Gazette dated 31st July, 1986 provided for acquiring qualification Radio Technician Gr.I and Gr.II ^{to} entitling the qualified A.S.I.s and S.I.s/proficiency pay. In the amended Recruitment Rules the following provisions have been made:-

"From amongst confirmed Asstt. Sub-Insprs. Radio Tech. having pass^{ed} grade-I Courses, with 6 years service in the grade, failing which from amongst confirmed A.S.I.s (Radio Technicians) Grade-II, with 8 years service in the grade, subject to the condition that they shall pass the Grade-I (Radio Tech.) Course, within a period of 3 years from the date of promotion, otherwise they shall be reverted to their substantive rank of ASI (Radio Technician)".

"Note: A.S.I. (Radio Technician) Grade-II, already promoted to the post of S.I. (Supervisor Technical) shall pass the Grade-I (Radio Technician) Course, within 3 years from the date of notification of the rules, failing which they shall be reverted."

7.1 Although the original Recruitment Rules did not specifically prescribe that Radio Technician Gr.II/Gr.I test to be passed will be that conducted by D.C.P.W., it is for the Competent Authority to lay down and prescribe the standard which would meet the requirements of the administration in public interest.

8. It is observed that the applicant never objected to appear in the Radio Technician Gr.I and Gr.II test of DCPW as he passed Grade II test in 1974 and made several attempts to qualify in the Gr.I test of DCPW. It is only when in accordance with the amended Recruitment Rules the possibility of his being reverted emerged that he protested and declined to avail ^{of} additional opportunities offered to appear in the examination to acquire requisite qualification. Having appeared in the Radio Technician Gr.I test on more than one occasion and having

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failed in them, it is not open to the applicant to challenge the very examination at this point of time.*

9. In the facts and circumstances of the case, we do not find any merit in the application which is hereby dismissed. There will be no order as to costs. We would, however, like to direct that the respondents should consider granting reasonable time and opportunity to the applicant to enable him to acquire requisite qualification, to avoid undue hardship to him.

I.K. Rasgotra
(I.K. RASGOTRA)
MEMBER (A) 19/1/90

T.S. Oberoi 14.1.90
(T.S. OBEROI)
MEMBER (J)

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* (i) AIR 1927 Madras 130 - O.K. Lakshmanan Vs. Corporation of Madras.

(ii) AIR 1957 SC 397 - M/s. Panna Lal Baij Rai Vs. UOI