



**Central Administrative Tribunal
Principal Bench, New Delhi**

**O.A. No.1699/2020
This the 04th day of November, 2020**

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

1. Tarun Kapoor, Dy. Commissioner (Transport),
Aged about 58 years & 06 months,
S/o Late Shri Nihal Chand Kapoor,
3260, 2nd Floor, Ranjeet Nagar,
New Delhi – 110008.
2. Sanjay Dewan, Dy. Commissioner (Transport),
Aged about 59 years & 10 months,
S/o Late Shri Shanti Saroop Dewan,
86, RPS, DDA Flats, Mansarovar park,
Delhi – 110032.
3. Subodh Kumar, Dy. Commissioner (Transport),
Aged 58 years & 06 months,
S/o Late Shri Jagdish Prasad,
Block D-1, 45-A, Sector – 52,
Noida, UP – 201307.

...Applicants

(By Advocate: Mr. M. K. Bhardwaj)

VERSUS

1. Secretary, UPSC,
Dholpur House, ShahJahan Road,
New Delhi.
2. The Lt. Governor,
Raj Niwas,
5, Sham Nath Marg,
Delhi – 110054.
3. The Chief Secretary, Delhi,
Delhi Secretariat,
I.P. Estate,
New Delhi – 110002.



4. Secretary-cum-Commissioner (Transport),
Govt. of NCT of Delhi,
Transport Department,
5/9 under Hill Road,
Delhi – 110054.

...Respondents

(By Advocate: Mr. R. V. Sinha and Ms. Esha Mazumdar)

ORDER (Oral)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman:-

The applicants are holding the substantive post of Pollution Control Officer (PCO). The next promotion is to the post of Deputy Commissioner (Transport). For some time they held the promotional post on ad hoc basis. In the context of their regular promotion, the matter was entrusted to UPSC. Through a communication dated 11.09.2020, the UPSC informed the Delhi Administration that the post remained vacant for a period exceeding two years and in view of OM dated 12.04.2017 issued by Department of Expenditure, whenever a post remained unfilled for a period exceeding two years, it is deemed to have been abolished and unless it is revived, the selection cannot take place. It is also mentioned that the vigilance clearance must be in a particular form and the details of punishments, if any, imposed upon the officers must be



furnished. This OA is filed challenging the communication dated 01.09.2020.

2. The applicants contend that the post did not remain vacant and they held them, albeit on ad hoc basis, and that the view taken by UPSC cannot be sustained in law.

3. We heard Mr. M. K. Bhardwaj, learned counsel for the applicants and Mr. R. V. Sinha with Mr. Amit Sinha and Ms. Esha Mazumdar, learned counsel for the respondents at the stage of admission through video conferencing.

4. It may be true that the applicants held the post of Deputy Commissioner (Transport) on ad hoc basis for some time. The fact, however, remains that in terms of the OM issued by Department of Expenditure, if the post is not regularly filled up for a period of 2 years, it is deemed to have been abolished. In case, the promotion or appointment is to be made to that post, an order needs to be passed for reviving it. It is brought to our notice that the Delhi Administration has already sent a proposal to the Hon'ble Lieutenant Governor. The applicants have to wait till the posts are revived. So far as the other conditions to be consider, we find anything abnormal about the same.



5. We, therefore, dispose of the OA directing the Delhi Administration i.e. Respondent No. 2 to expedite the process of revival of the posts and to comply with the other conditions. It is need less to mention that as soon as the posts are revived necessary steps for promotion shall be taken.

6. There shall be no order as to costs.

7. Order Dasti.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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