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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. 1257 of 1987

New Delhi this the 14th day of January, 1994

Mr. Justice S.K. Dhaon, Vice-Chairman
Mr. B.K. Singh, Member

Shri Sant Singh Chauhan
R/o 1625-D/I, Najafgarh,
New Delhi-110043.

...Applicant

By Advocate Shri G.D. Gupta

Versus

1. The Chief Secretary,
Delhi Administration,
5, Sham Nath Marg,
Delhi-54.
2. The Secretary (Transport),
Delhi Administration,
5, Alipur Road,
Delhi.
3. Director of Transport,
Delhi Administration,
5/9 Under Hill Road,
Delhi-54.

...Respondents

By Advocate Mrs. Avnish Ahlawat

ORDER (ORAI)

Mr. Justice S.K. Dhaon, Vice-Chairman

The grievance of the applicant is that in the year 1987, the respondents did not consider him for appointment as a Driving Test Inspector in the Directorate of Transport. That post was to be filled up by direct recruitment.

2. Initially, the applicant was appointed as a Constable in the Enforcement Wing of the Directorate of Transport, Delhi Administration. Sometimes in 1985, he was given an ad hoc appointment as a Driving Test Inspector. An advertisement was issued, inviting applications to fill up that post on a regular basis. The applicant made an application. However, he was not considered as the respondents considered him as not qualified.

3. The post in question is governed by the rules framed under the proviso to Article 309 of the Constitution. Under the rules, a number of qualifications are prescribed. The first is the educational qualification. The requirement is that the candidate must possess a degree of a recognised

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university.

4. Admittedly, the applicant does not possess a degree of a recognised university. Learned counsel for the applicant has urged that the applicant having passed the Madhyama Exam conducted by the Hindi Sahitya Sammelan Prayag, Allahabad, it should be held that he fulfilled the requisite educational qualification. We are unable to agree to this submission. Reliance is placed by the learned counsel for the applicant on a communication dated 15.09.1987 of the Ministry of Human Resources Development. This communication is addressed to the applicant. To the said communication, a "Press Note" is appended. According to this Press Note, Hindi Sahitya Sammelan Prayag is a voluntary organisation, neither a university nor a institution equivalent to. Therefore, the examinations conducted by this organisation do not have equal recognition level which has been provided to High School, Intermediate and B.A. etc. The Press Note clarifies that the recognition of the Hindi Sahitya Sammelan Prayag is limited and equivalent to the Hindi status fixed for an examination and will not be considered equivalent to degree certificate of such exam for which Hindi equivalent status has been shown. Learned counsel for the applicant has urged that the respondents had the power to relax the requirement of educational qualification. In the counter-affidavit filed on behalf of the respondents, it is admitted that relaxations were given to certain candidates in relation to the technical qualification, as laid down in the rules.

5. On behalf of the applicant, it is strenuously urged that the respondents having exercised the power of relaxation with respect to one set of candidates, they have acted arbitrarily in not considering the case of the applicant. There appears to be force in this contention.

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We have already indicated that the applicant has already worked on an ad hoc basis from the year 1985 onwards, until final appointments were made by direct recruitment. We may note that on 21.09.1987, this Tribunal passed an interim order: ".....In the meanwhile, appointments if any made to the post of Driving Test Inspector, shall be subject to the decision of this case".

6. Having come to the conclusion that the respondents did not act fairly in not considering the case of the applicant for giving him a relaxation, the question to be considered is as to what relief should be given to the applicant at this stage. Admittedly, appointments had been made in the year 1987 and admittedly appointees are not before us. Shri Gupta meets this argument by contending that since under the interim orders of this Tribunal, appointments were to be made subject to the decision of this O.A., the appointees should have been given due notice of the pendency of this O.A. and it was not obligatory upon the applicant to implead them in this O.A. However, if they so desired they could have come to the Tribunal for being impleaded as intervenors. Again, this submission has force. Nonetheless, we feel ^{that} it will be hard and harsh upon the appointees if they are disturbed now.

7. Having considered the matter carefully, we direct the respondents to consider the case of the applicant for relaxation in the matter of educational qualifications on merits and in accordance with law. We have no doubt that the authority concerned while considering the case of the applicant shall take into account his past record and also the fact that he had already worked in the post in question for a period of 2½ years on an ad hoc basis. If the authority decides to give a relaxation to the applicant, the respondents shall create a post for the applicant and appoint him as a Driving Test Inspector. The respondents shall be entitled to consider the case of the applicant for appointment in

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accordance with the relevant rules.

8. With these directions, this O.A. is disposed of finally but without any order as to costs.

(B.V. SINGH)
MEMBER (A)
14.01.1994

(S.K. DHAON)
VICE CHAIRMAN
14.01.1994

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