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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No. 1511/90.

Date of decision 31-8-94

Hon'ble Shri S.R. Adige, Member (A)

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Shri Sunder Lal,
Daily Wager,
Under Additional Collector,
Central Excise,
Faridabad (Haryana) .. Applicant

(By Advocate Shri B.S. Mainee)

versus:

1. The Secretary to the Govt. of India,
Ministry of Finance
(Central Board of Excise & Customs),
New Delhi.
2. The Principal Collector,
Customs & Central Excise,
Delhi Collectorate,
New Delhi.
3. The Additional Collector,
Central Excise,
FARIDABAD (Haryana) .. Respondents

(By Advocate Shri R.P. Bharti)

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[Hon'ble Smt. Lakshmi Swaminathan, Member (J)]

This O.A. has been filed under Section 19
of the Administrative Tribunals Act, 1985 challeng-
ing the failure of the respondents to regularise the
applicant as a Sepoy/Farash/Chowkidar in accordance
with the Government of India's instructions although
he has been working as a daily wager with effect
from 23.11.1981.

2. The applicant has claimed that action of the respondent's violates Articles 14 and 16 of the Constitution. He claims that he should be regularised from the date his juniors have been regularised.

3. The respondents have, in their reply, stated that he could be considered for regularisation only after he has put in two years of service. According to them, he had been so considered in the years 1984, 1986, 1988 and 1989. His position in 1984 consideration list was at S.No. 49 whereas candidates upto serial No. 43 could only be considered for regularisation. The applicant's contention is that if his physical condition in 1984, namely, chest expansion requirement for regularisation in the post of Sepoy was found suitable in 1984, how the respondents can later state that he had not been found suitable in subsequent years 1988 and 1989. The respondents have also stated that in the DPC held in 1990, he had been found fit and has since been appointed in the grade of Sepoy w.e.f. 24.10.1990.

4. Although there appears to be some merit in the contention raised by the learned counsel for the applicant that when the applicant has been found physically fit for regularisation as Sepoy in 1984 and was placed

in the consideration list at S.No. 49 and he has also been subsequently found fit in 1990 how he could have been disqualified in 1986, 1988 and 1989 is not clear. However, in spite of the fact that he had qualified in 1984, he had gone for further test, which was conducted in the subsequent years. In the letter dated 14.9.1988 (Annexure A-7) enclosing a representation from the applicant written by the Assistant Collector, Central Excise to the Principal Collector, Customs and Central Excise, Delhi Collectorate strongly recommending his case for regularisation, it is mentioned that he had been rejected twice at the interview stage in 1984 and 1986. Therefore, the applicant has failed to establish that he had been found physically fit right from 1984.

5. The applicant's claim for regularisation in a Group 'D' post from the date his juniors have been regularised is also somewhat vague. The respondents have also admitted that some of the daily wagers, who joined later, have been regularised as Sepoy since they qualified in the physical test and interview prior to the date when the applicant qualified in the DPC held in 1990. They have also averred that none of his juniors were regularised or were even in

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consideration zone in other grade 'D' posts of Farash/Chowkidar. In 1982, the applicant could not be considered for regularisation as he had not completed the two years of service required for this purpose.

6. In the facts and circumstances of the case, we find that the claim of the applicant for regularisation as Sepoy or in any other group 'D' post prior to his regularisation on 24.10.1990 is without any basis. This application is accordingly rejected. There will be no order as to costs.

Lakshmi Swaminathan
(Lakshmi Swaminathan)
Member (J)

S.R. Adige
(S.R. Adige)
Member (A)