

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

## NEW DELHI

O.A. No. 2112/90  
T.A. No.

199

DATE OF DECISION 12.3.1992

Shri Baldev Singh & Ors.	<del>Petitioner</del> Applicants
Smt. Rani Chhabra	Advocate for the <del>Petitioner(s)</del> Applicants
Versus	
Union of India through Secy., Miny. of Communications & Ors.	Respondent
Smt. Raj Kumari Chopra	Advocate for the Respondent(s)

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The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. D.K. Chakravorty, 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? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

(Judgement of the Bench delivered by Hon'ble  
Mr. P.K. Kartha, Vice-Chairman)

The four applicants before us have worked as Lorry Drivers in the office of the respondents. They are aggrieved by the decision of the respondents to advertise the posts of Driver and recruit others, overlooking their preferential claims.

2. On 12.10.1990, an interim order was passed directing the respondents <sup>to</sup> not terminate the services of the applicants or revert them to lower posts so long as vacancies exist, in preference to outsiders.

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3. We have gone through the records of the case carefully and have considered the rival contentions. Admittedly, the applicants have worked for fairly long periods in the office of the respondents. Applicant No.1 was recruited as a daily-rated Mezdor (D.R.M.) in 1980 and was allowed to work as Lorry Driver since 1982. He has completed 3,995 days of service. Applicant No.2 was also initially recruited as D.R.M. and was allowed to work as Lorry Driver since 1.4.1987. He has completed 1,277 days of service. Applicant No.3 was also a D.R.M. who was allowed to work as Lorry Driver since 9.9.1987. He has put in 1,109 days of service. Applicant No.4 was also recruited as D.R.M. and posted as Driver since 12.8.1987. He has worked for 1100 days as such.

4. The respondents issued an advertisement on 1.3.89 proposing to recruit Lorry Drivers. Though the applicants applied for the same, they were not called for the interview. According to them, they possess the requisite qualifications and experience and they ought to have been regularised in the posts of Lorry Driver, having regard to their practical experience.

5. According to the respondents, the applicants were not found eligible as per the recruitment rules for calling for the interview and were not considered for appointment.

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6. The respondents have annexed to their counter-affidavit a copy of the recruitment rules entitled, 'The Posts & Telegraphs Department (Motor, Jeep, Lorry and Staffcar Driver) Recruitment Rules, 1983'. According to the said recruitment rules, 50 per cent of the posts of Drivers are to be filled by direct recruitment and 50 per cent by transfer. The qualifications prescribed for direct recruitment are (i) possession of a valid driving licence, (ii) at least 4 years' driving experience, and (iii) ability to read and write local languages and to make simple arithmetic calculations. Middle standard pass is a desirable qualification. Any person holding Group 'C' and Group 'D' post having three years' regular service in the eligible cadre in the unit of recruitment and whose scale of pay is lower than that of Driver and possessing valid driving licence, is eligible for promotion/transfer. Selection shall be made from amongst candidates possessing the said qualifications and licence on the basis of a driving test. If no suitable person is available in the unit of recruitment, eligible persons working in other units of recruitment, shall be considered for recruitment by transfer, failing which, by direct recruitment.

7. Rule 6 of the Recruitment Rules provides that where the Government is of the opinion that it is necessary or

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expedient so to do, it may, by order and for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons. Having regard to the practical experience gained by the applicants in their fairly long service with the respondents, we feel that the respondents should <sup>have</sup> consider the question of invoking the power to relax in the case of the applicants before us.

8. The applicants, in view of their fairly long service and experience in the office of the respondents, as Drivers, have only a right to be considered for regular appointment in accordance with the aforesaid recruitment rules. The mere fact that they have been engaged for long periods of time, would not by itself make them eligible for regularisation in a case where recruitment rules for filling up of the posts exist. The respondents have stated in their counter-affidavit that in reply to the advertisement, 74 applications were received, but only 20 of them were found <sup>to be</sup> in order. Two of the applicants were considered as ~~xxx~~ the departmental candidates and two others, against the outsider quota. As none of them were found to fulfil the eligibility criteria, they were not interviewed and appointed.

9. The plea of the applicants is that the recruitment rules have no nexus with the object sought to be achieved.

We are unable to subscribe to this view. We do not see any legal or constitutional infirmity in the provisions of the recruitment rules which provide for promotion as well as direct recruitment in equal proportions. The eligibility criteria prescribed for promotion/direct recruitment, cannot be said to be unreasonable.

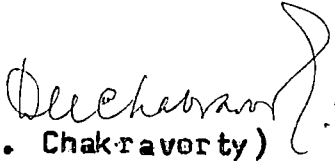
10. The learned counsel for the applicants relied upon the decision of the Supreme Court in Bhagwati Prasad Vs. Delhi State Mineral Development Corporation, 1990 (1) SCC 361. The decision of the Supreme Court is clearly distinguishable. The applicants in the instant case have not been appointed as Lorry Drivers as such. They have only been allowed to work on the said post and they continue to be daily-rated Mazdoors.

11. In the facts and circumstances mentioned above, the application is disposed of with the following orders and directions:-

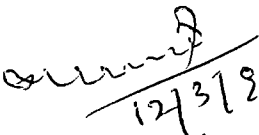
- (i) The respondents are directed to continue to engage the applicants as casual labourers so long as they need the services of the same and in preference to persons with lesser length of service and outsiders. The applicants should also be considered for regularisation in suitable posts in accordance with the scheme

prepared by them for regularisation of casual labourers as they have already acquired temporary status after having worked for more than one year.

- (ii) The case of the applicants should be considered for regularisation in suitable posts commensurate with their length of service and experience, in accordance with the relevant recruitment rules. Having regard to the long period of service put in by them, the Department should also consider the question of relaxing the provisions of the recruitment rules relating to the eligibility criteria for appointing them as Lorry Drivers in any vacancy that may arise in future.
- (iii) The interim order passed on 12.10.1990 as modified on the above lines, is hereby made absolute.
- (iv) There will be no order as to costs.

  
(D.K. Chakravorty)  
Administrative Member

12/3/1992

  
(P.K. Kartha)  
Vice-Chairman(Judl.)