

In the Central Administrative Tribunal
Principal Bench, New Delhi

Regn. Nos.:

Date: 22.2.1991.

1. DA-2654/90
2. DA-2652/90
3. DA-2656/90
✓ 4. DA-2660/90

1. Shri Mehtab Singh }
2. Shri Gabbar Singh }
3. Hari Hari Prasad }
4. Rai Singh }
..... Applicants

Versus

Union of India through Respondents
Secretary, Ministry of
Health & Family Welfare

For the applicants in Shri A.S. Bawa, Advocate
1-4

For the respondents in Shri K.C. Mittal, Advocate
1-4

CORAM: Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)
Hon'ble Mr. M.M. Singh, Administrative Member.
1. Whether Reporters of local papers be allowed to see the
judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
(Judgement of the Bench delivered by Hon'ble
Mr. P.K. Kartha, Vice-Chairman)

The applicants have worked as Lower Division
Clerks in the Ministry of Health & Family Welfare
(D.G.H.S.) for several years and they are aggrieved
by the impugned orders of reversion issued by the
respondents, whereby they have been sought to be
reverted to their substantive posts of Peon. As
common questions of law have been raised in these
applications, it is proposed to deal with them in a
common judgement.

2. The facts of the case in brief are as follows.

The applicants were appointed as Peons between the years 1962 and 1968. All of them were made permanent as Peons between 1972 and 1973. They applied for permission to the Ministry of Health and Family Welfare for doing Matriculation from the Board of Adult Education & Training and they were given the necessary permission. All of them qualified in the Secondary Examination conducted by the Board of Adult Education and Training, Delhi. On that basis, they were promoted to the posts of LDC on ad hoc basis between 1980 and 1984.

On 17.2.1982, the respondents issued a circular stating that Group 'D' employees working on a regular basis, are eligible for consideration for appointment against 5% vacancies in the grade of Lower Division Clerk provided they have passed Matriculation or its equivalent examination and are otherwise eligible by virtue of length of service, etc. (5 years of continuous service in Group 'D' posts). All such persons were requested to supply their particulars in the prescribed proforma. One of the particulars to be furnished relates to the educational qualifications, namely,

- i) Year in which passed Matriculation Examination or equivalent,
- ii) Name of examination passed,

iii) School/Board from which passed, and
iv) Whether SC/ST.

4. All Group 'D' employees who claim to have passed the Matriculation Examination or equivalent, were requested to send certificates alongwith attested copies with the above particulars.

5. The applicants submitted to the respondents the Matriculation standard examination certificates given by the Board of Adult Education and Training. After considering the same, the respondents appointed the applicants as LDCs on regular basis in 1984.

6. The applicants worked as LDCs from 1981 to 16.10.1989, when the respondents issued an order to the effect that they were promoted as Lower Division Clerks on the basis of the Secondary School Examination certificate awarded by the Board of Adult Education and Training and that it has now been found that the aforesaid certificates are not recognised by the Board of Secondary Education, Delhi. It was, therefore, stated that they do not possess educational qualifications. Consequently, they were reverted from the post of L.D.C. to that of Peon.

(X)

7. Thereafter, the applicants moved this Tribunal with applications challenging the order of reversion. The Tribunal quashed the impugned order and gave the respondents liberty to pass fresh orders after giving an opportunity to the applicants. The applicants were also given liberty to agitate the matter before the Tribunal, if they are aggrieved by the final orders passed by the respondents.

8. Thereafter, the respondents issued show-cause notices to the applicants and after considering their written representations, passed the impugned order of reversion dated 1.10.1990.

9. The applicants have contended that they, who had been working as LDCs for more than 9 years, had crossed the Efficiency Bar and had been granted increments from time to time. If the matriculation examination recognised by the Board of Secondary Education, Delhi only is a pre-requisite qualification for consideration to the post of L.D.C., then it would have been categorically stated in the circular dated 17.2.1982 (marked as Annexure A-9). On the contrary, the circular merely stated that the employees working in the Ministry (including DGHS) on regular basis are eligible for consideration for appointment against 5%

(8)

of the vacancies in the grade of LDC provided that they have passed the matriculation examination or equivalent. Nowhere was it stated that the said matriculation examination or equivalent should be recognised by the Board of Secondary Education, Delhi, which the respondent is insisting now. The applicants have submitted that it is unjust, unfair and against the principle of equity to revert them from the post of L.D.C. when they have served for more than 9 years on the ground that the examination which they have qualified was not recognised by the respondents. They have stated that many persons possessing the same educational qualification, have been appointed and promoted in other offices of the Government of India like the Ministries (Central), U.P.S.C., C.P.W.D., Government Hospitals, Ministry of External Affairs, Civil Supplies, Department of Agriculture and even in the Directorate General of Health Services.

10. The respondents have stated in their counter-affidavit that the applicants were promoted to the post of L.D.C. on ad hoc basis on the assumption that the certificate awarded by the Board of Adult Education and Training is recognised as equivalent to Matriculation. At the time of appointment of the applicants

as LDCs on regular basis in 1984, the respondents were not aware about non-recognition of the certificate awarded by the said Board. They came to know about it in June, 1989.

11. The respondents have relied upon the O.M. dated 18.8.1989 issued by the Ministry of Human Resource Development and dated 1.6.1989 issued by the Department of Personnel & Training, which read as follows:-

"The undersigned is directed to say that it has come to the notice of the Government of India, Ministry of Human Resource Development (Department of Education), New Delhi and a few other ministries and departments of Government of India that a society registered under the Societies Registration Act at Delhi by the name of Board of Adult Education and Training (Prodh Shiksha Sansthan), New Delhi-110003 are styling themselves as recognised Board for conducting the Uchhatar Madhyamik Examination (Matriculation Standard Examination) and are awarding certificates equivalent to class X of the Secondary Board of Education, Delhi. Several thousand innocent and ignorant youngmen have been allured by the said bogus Board who have taken examination of the said Board and have been awarded certificates stated to be equivalent to class X of Delhi Board of Secondary Education. In several cases, the ministries/departments of Government of India and their subordinate offices and public undertakings have provided jobs to several candidates on the basis of the certificates issued by the so called Board of Adult Education and Training.

2. It is brought to the notice of all the ministries and departments of Government of India that the said board and the certificates issued by it are not recognised for any purposes whatsoever either by the Ministry of Human Resource Development (Department of Education) and Delhi Administration. The ministries and departments of Government of India are, therefore, advised not to give

any cognisance/recognition to the certificates issued by the said board for purposes of initial appointment in the Government of India and for further promotion of the candidates holding certificates of the said Board. All the Ministries/Departments of Government of India may kindly bring the contents of this Office Memorandum to the notice of their subordinate offices and public undertakings for information and compliance."

O.M. dated 1.6.1989

"The undersigned is directed to refer to your O.M. No.A-12022/7/89-Estt.II dated 29.5.89 on the above subject and to say that the Board of Adult Education & Training is not a recognised institution and its certificates are not recognised for the purpose of employment under the Central Government."

12. We have gone through the records of the case carefully and have considered the rival contentions.

The circular issued by the respondents on 17.2.1982 did not stipulate that the Matriculation certificate should have been issued by a recognised institution.

Passing of an examination equivalent to Matriculation was sufficient. The applicants have not been found guilty of having produced false certificates. There

is also no allegation that they concealed any fact about the genuineness of the certificate submitted by them. The applicants submitted the certificates

in bona fide belief that the course conducted by the Board of Adult Education and Training was equivalent to Matriculation Examination. There is nothing on record that the certificate issued by the Board of

Adult Education & Training is not equivalent to
Matriculation certificate.

13. Another aspect of the matter is that many persons possessing the same educational qualifications like that of the applicants, are working in other Government departments, etc.

14. Having promoted the applicants as LDCs after the respondents accepted the certificates given by the Board of Adult Education & Training without any reservations or preconditions, and having allowed the applicants to work as LDCs for about 9 years, neither law nor equity would justify their reversion on the basis of a decision taken by the respondents in 1989 that the certificates issued by the Board of Adult Education & Training are not recognised for the purpose of employment under the Central Government.

The O.M. dated 1.6.1989 and 18.8.1989 mentioned above refer only to the non-recognition of certificates issued by the Board of Adult Education & Training and do not state whether the certificates issued by the said Board are, or are not equivalent to Matriculation Examination. We, therefore, set aside and quash the impugned order of reversion dated 1.10.1990, whereby the applicants have been sought to be reverted from the post of L.D.C. to that of Peon. The applicants would be entitled to all consequential benefits, including arrears of pay and allowances from 1.10.1990 onwards. The respondents shall pay the same to the applicants within a period of one month from the date of receipt of this order. There will be no order as to costs.

any cognisance/recognition to the certificates issued by the said board for purposes of initial appointment in the Government of India and for further promotion of the candidates holding certificates of the said Board. All the Ministries/Departments of Government of India may kindly bring the contents of this Office Memorandum to the notice of their subordinate offices and public undertakings for information and compliance."

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12. We have gone through the records of the case and have examined the documents very carefully and have considered the rival contentions.

The circular issued by the respondents on 17.2.1982 did not stipulate that the Matriculation certificate should have been issued by a recognised institution.

Passing of an examination equivalent to Matriculation examination was held to be sufficient. The applicants have not been found guilty of having produced false certificates. There is also no allegation that they concealed any fact about the genuineness of the certificate submitted by them. The applicants submitted the certificates in bona fide belief that the course conducted by the

Board of Adult Education and Training was equivalent to Matriculation Examination. There is nothing on record that the certificate issued by the Board of

Adult Education & Training is not equivalent to Matriculation certificate.

13. Another aspect of the matter is that many persons possessing the same educational qualifications like that of the applicants, are working in other Government departments, etc.

14. Having promoted the applicants as LDCs after the respondents accepted the certificates given by the Board of Adult Education & Training without any reservations or preconditions, and having allowed the applicants to work as LDCs for about 9 years, neither law nor equity would justify their reversion on the basis of a decision taken by the respondents in 1989 that the certificates issued by the Board of Adult Education & Training are not recognised for the purpose of employment under the Central Government. The O.M. dated 1.6.1989 and 18.8.1989 mentioned above refer only to the non-recognition of certificates issued by the Board of Adult Education & Training and do not state whether the certificates issued by the said Board are, or are not equivalent to Matriculation Examination. We, therefore, set aside and quash the impugned order of reversion dated 1.10.1990, whereby the applicants have been sought to be reverted from the post of L.O.C. to that of Peon. The applicants would be entitled to all consequential benefits, including arrears of pay and allowances from 1.10.1990 onwards. The respondents shall pay the same to the applicants within a period of one month from the date of receipt of this order. There will be no order as to costs.

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Let a copy of this order be placed in all
the four case files.

(M.M. Singh)
Administrative Member

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