

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

Regn. Nos.:

1. OA-361/90, and
2. OA-644/90

Date of Decision: 08.01.1993

1. Shri Guru Parshad & Ors.) Applicants
2. Shri Om Prakash & Ors.)

Versus

Union of India through
Secretary, Ministry of
Urban Development and
Another Respondents

For the Applicants Mr. E.X. Joseph, Advocate

For the Respondents Mrs. Raj Kumari Ghopra,
Advocate

CORAM:

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

The Hon'ble Mr. B.N. Dholiwal, Administrative Member

1. To be referred to the Reporters or not, Yes

JUDGEMENT

(of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice Chairman(J))

We have gone through the records of these cases
and have heard the learned counsel for both the parties.
As the issues raised are common, it is proposed to deal
with them in a common judgement.

2. The applicants have worked as Malis for various
periods ranging from 1976 onwards. All of them are
staying in the President's Estate as they are the sons
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of employees of the President's Secretariat. Their grievance is that they have not been regularised as have not been ~~a~~ Malis and given service benefits and seniority from the date of their initial appointment. According to them, they were duly selected at the time of their initial appointment. They were, however, told on 29.11.1989, that their services were no longer required. They have stated that they were assured by the respondents that they would be absorbed on regular basis in due course.

3. The respondents have stated in their counter-affidavit that the applicants were engaged for seasonal work of unskilled nature whenever the need arose. Malis are appointed in accordance with the relevant recruitment rules/prescribed minimum qualifications, test and interview. The selection was made in 1989 through open advertisement and those who fulfilled the prescribed qualifications and succeeded in the test and interview, were given appointment as Malis. According to them, there was no bar to the applicants' also applying for the same.

4. The applicants are relying upon the qualifications prescribed for the posts of Mali in the C.P.W.D., according to which, the person should have elementary knowledge of gardening with agricultural background and that he must be conversant with gardening operations. He should qualify

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in a departmental test in digging, trenching and preparation of beds.

5. As against the above, the respondents have stated that the minimum qualifications prescribed for Malis under the recruitment rules is VIII Class pass with practical test of digging and a written test about the basic knowledge of gardening. The post of Mali is filled by direct recruitment. According to the respondents, none of the applicants possess the requisite qualifications. They were engaged on seasonal work as they were readily available on-the-spot and the service thus rendered by them would not make them eligible for appointment as Malis on regular basis.

6. The applicants have annexed to the application memos, issued in 1987 to the applicants to report in connection with their employment as Malis. They were required to produce the original certificates regarding their age, experience, educational qualifications, etc.

7. Admittedly, the applicants do not possess the educational qualification prescribed for the posts of Mali under the recruitment rules brought into force by the respondents w.e.f. 23.8.1988.

8. The applicants have stated that certain persons who were similarly situated, have been given appointment even though they did not fulfil the requisite educational qualification of VIII Class pass. In this connection, they have

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mentioned the names of S/Shri Ram Karan, Bale Ram, Phool Singh and Prehlad. The respondents have stated in their counter-affidavit that the above mentioned persons were selected and empanelled in 1987 on their own merits in accordance with the qualifications prescribed at that time.

9. In the rejoinder affidavit, the applicants have stated that even though some persons who have been regularised, did not possess the requisite qualifications of VIII Class pass, they have been appointed as Malis on regular basis. They have mentioned the names of S/Shri Veer Singh s/o Chuni, Mishari Lal s/o Ram Saran, Bale Ram s/o Shera Singh, and Ram Karan. The respondents have not controverted this version by filing an affidavit. The learned counsel for the respondents, however, stated at the Bar that the age and qualifications cannot be relaxed.

10. The Tribunal passed interim orders in both the cases ~~to~~ want to engage the services of casual labourers, they shall to the effect that in case the respondents/consider engaging the applicants as casual labourers if there are vacancies and in preference to outsiders and fresh recruits. This interim order had been continued till the case was finally heard on 18.12.1992. During the hearing, the learned counsel for the applicants stated that there are about 600 Malis working in the President's Estate. According to the learned counsel for the respondents, the number of this category of employees is

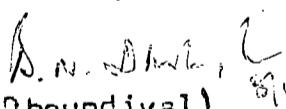
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about 200. In our opinion, the mere fact that the applicants had passed an elementary test at the time of their initial engagement, will not give them any right to regularisation in the posts of Mali. In fact, the applicants had appeared for a test and interview held in 1987 and those who qualified in the same, were given the regular appointment. The qualifications for recruitment of Malis were changed w.e.f. 23.6.1988 and a fresh test was held in 1989. In our opinion, the prescription of minimum qualification of VIII Class pass for the posts of Mali, cannot be said to be illegal or unconstitutional.

11. In the instant case, there is no charge of misconduct or unsatisfactory work against any of the applicants. In the facts and circumstances, the application is disposed of with the direction to the respondents to consider engaging the applicants as casual labourers if vacancies exist in preference to persons with lesser length of service and outsiders. There will be no order as to costs. ² Let a copy of this order be placed in both the case files.


(B.N. Dhandiyal) 8/1/93
Administrative Member


8/1/93
(P.K. Kartha)
Vice-Chairman (Judl.)