

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA.No.1190/91

Date of Decision: 6.11.92.

Shri Puran Chand

Applicant

Vs.

Union of India

Respondents

Shri R.L. Sethi

Counsel for the applicant

Mrs. Geeta Luthra

Counsel for the respondents

CORAM:

The Hon'ble Mr. P.K. KARTHA, Vice Chairman(Judicial)

The Hon'ble Mr. B.N. DHOUNDIYAL, Member(Administration)

1. Whether Reporters of local papers may 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 Member Shri B.N. DHOUNDIYAL)

This OA has been filed under Section 19 of the Central Administrative Tribunal's Act, 1985, by Shri Puran Chand, Beldar, seeking higher pay for the period from 1.7.88 as he has worked as Driver since the said date.

2. The applicant, a member of Scheduled Caste, was appointed as Work Charged Beldar with the Executive Engineer, Flood Control Division III under the Delhi Administration in July 1988. He

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possesses a heavy vehicle driving licence and was deputed to work as a Driver Jeep/Truck by way of stop gap emergent arrangement vide order dated 1.7.88. This arrangement was continued vide orders dated 13.9.88 and 22.4.89 and thus he has been working as Driver continuously since July 1988. He represented on 29.12.1989, seeking pay of the post of Driver against which he has been working, but to no avail. He prays for directions to the respondents to pay him the emoluments for the post of Driver since 1.7.88.

3. The respondents have stated that the applicant is working on the post of Beldar w.e.f. 1.7.88 and not a Driver. He is getting his pay and allowance as Work Charged Beldar. The work of a Driver is higher and more respectable in comparison to that of a Beldar and he opted to perform duties of a Driver even at the pay and allowances of Beldar, with a request that he may be considered for the post of Driver as and when vacancy arises. It is on this basis that his name was sponsored for the post of Driver twice in 1987.

4. We have heard the arguments put forth by the learned counsel for both parties and perused the documents placed on record. The learned counsel for the respondents has relied on the Supreme Court's observations in DDH Workers Vs. Delhi Administration; 1992(1) SCALE 294,

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particularly those relating to pernicious consequences of regularisation of workmen after completion of 240 days even in cases where they have not come through the Employment Exchange and the possibility of extraneous considerations playing a part in this process. However, the present case is distinguishable as the applicant has been employed as Beldar from 1.7.88 and being in possession of licence for driving heavy trucks, his services have been used continuously as a Driver since 1.7.88. The respondents have already sponsored his name twice for consideration for appointment to the vacant post of Driver. He has averred that he has been working as a Driver to the entire satisfaction of his superiors and his claim has not been contradicted by the respondents.

5. In the conspectus of the facts and circumstances of the case, we order and direct the respondents to consider the appointment of the applicant as Driver, whenever vacancy arises in preference to his juniors and outsiders. Till he is regularly appointed as Driver, in case his services are utilised as Driver, the respondents shall pay him the minimum of the pay and allowances in the pay scale of Driver with effect from May, 1991, i.e. the date of filing of the present application. Arrears, if any, on this account, shall be released expeditiously and preferably within a period of three months

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from the date of receipt of this order. There will be
no order as to costs.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL) 6/11/92
MEMBER(A)

[Signature]
6/11/92
(P.K. KARTHA)
VICE CHAIRMAN(J)

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