(3)

9.

12.03.92

OA 2573/91

Present: Shri R.L. Sethi, counsel for the applicant.

Shri T.S. Kapoor, counsel for the respondents.

Counter filed

Adjourned to 15.07.92. Interim order to continue till further orders.

Rejoinder awaited

(D.K. CHAKRAVORTY)
MEMBER (A)
12.03.92

(P.K. KARTHA)
VICE CHAIRMAN
12.03.92

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

....

O.A.No.2572/91 Date of decision: July 15, 1992.

Suraj Bhan ...Applicant

Versus

Union of India & Anr. ...Respondents

O.A.No.2573/91

Dinesh Silmana ...Applicant

Versus

Union of India & Anr. ...Respondents

O.A.No.555/92

P. Subramanium & Anr. ...Applicant

Versus

Union of India & Anr. ...Respondents

O.A.No.556/92

Ram Sewak ...Applicant

Versus

Union of India & Ors. ...Respondents

O.A.No.557/92

Virender Singh ...Applicant

Versus

Union of India & Ors. ...Respondents

O.A.No.558/92

Manjit Singh ...Applicant

Versus

Union of India & Anr. ...Respondents

contd...

(5)

O.A.No.620/92

Phool Singh ...Applicant

Versus

Union of India & Ors. ...Respondents

O.A.No.629/92

Gajraj Singh ...Applicant

Versus

Union of India & Ors. ...Respondents

O.A.No.682/92

N. Rehman ...Applicant

Versus

Union of India & Anr. ...Respondents

O.A.No.683/92

Prem Singh ...Applicant

Versus

Union of India & Anr. ...Respondents

O.A.No.691/92

Brahm Prakash & 2 others ...Applicant

Versus

Union of India & Ors. ...Respondents

O.A.No.711/92

Jagdish Singh & Another ...Applicant

Versus

Union of India & Ors. ...Respondents

O.A.No.1216/91

Nafe Singh ...Applicant

Versus

Union of India & Ors. ...Respondents

contd...3.

(b)

O.A.No.1452/91

Santosh Singh ...Applicant

Versus

Union of India & Ors. ...Respondents

O.A.No.1601/92

B.R. Reddy ...Applicant

Versus

Union of India & Anr. ...Respondents

O.A.No.1662/91

B.C. Reddiech ...Applicant

Versus

Union of India & Anr. ...Respondents

O.A.No.1966/91

Rajbir Singh & Others ...Applicant

Versus

Union of India & Ors. ...Respondents

O.A.No.2471/91

Ram Kumar Swami ...Applicant

Versus

Union of India & Ors. ...Respondents

O.A.No.40/92.

Davender Singh ...Applicant

Versus

Union of India & Anr. ...Respondents

O.A.No.768/92

Inder Singh & Others ...Applicant

Versus

Union of India & Anr. ...Respondents

Contd....4.

O.A.No.1087/91.

Ram Sringar & Others ...Applicant

Versus

Union of India & Anr. ...Respondents

O.A.No.1421/91

Nafe Singh ...Applicant

Versus

Union of India & Anr. ...Respondents

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE-CHAIRMAN(J).
THE HON'BLE MR. B.N. DHOUNDIYAL, MEMBER(A).

Applicants through Shri R.L. Sethi, Counsel.

Respondents through Ms. Geeta Luthra, Counsel; and S/Shri Anoop Bagai, Counsel; Pawan Behl, Counsel; O.N.Trisal, Counsel; M.C.Garg, Counsel; B.R. Prashar, Counsel.

JUDGMENT (ORAL)

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

As common questions of law and fact arise for consideration in this batch of cases, they were heard together and are being disposed of by this common judgment.

2. The applicants belong to the Central Police

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(8)

Organisations (CPOs) consisting of C.R.P.F., B.S.F., I.T.B.P., and C.I.S.F. They were deputed to the Delhi Police on various dates and the deputation has been extended from time to time. The respondents have permanently absorbed about 400 such persons but they have decided to repatriate about 100 persons to their parent departments. The applicants before us belong to the category of those who have been ordered to be repatriated to their parent departments. By virtue of the interim orders passed by the Tribunal, they are, however, continuing with the Delhi Police in their present posts.

3. The applicants belong to the category of Constables/Head Constables. Rule 9 of the Delhi Police (Appointment and Recruitment) Rules, 1980 prescribes matric/higher secondary, 10th or 10+2 as the minimum educational standard for the purpose of recruitment/appointment of Police constables. Rule 17 of the Delhi Police (General Conditions of Service) Rules, 1980 provides, inter alia, that the Commissioner of Police, Delhi may sanction permanent absorption in Delhi Police of upper and lower subordinates except Inspectors from other States/Union

Contd...6.

Territories and Central Police Organisations, with their consent and with the concurrence of the head of the Police force of the State/Union Territory or the Central Police Organisations etc.

4. The case of the applicants is that the respondents did not consider their case for absorption in the Delhi Police in accordance with the policy decision contained in their letter dated 11-7-1990 dealing with the permanent absorption of Constables from CPOs to Delhi Police. According to the said decision, all Constables of the CPOs who have completed two years of deputation period and who are below 40 years of age and possess matric or above educational qualification are eligible for absorption. In such cases, the persons concerned are to be heard in person and their suitability should be assessed after scrutinising their service records.

5. The grievance of the applicants is that the policy decision was not implemented fairly and that this had resulted in arbitrariness and discrimination. As against this, the learned counsel for the respondents argued that the decision taken

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(10)

by the respondents to absorb or not to absorb the deputationists was on the basis of the records available with them and that there was no arbitrariness or discrimination in the action taken by them.

6. According to the admitted facts of the case, , those who have passed matriculation examination and above and are otherwise eligible are to be considered for absorption in accordance with Rule 17 mentioned above as also the policy decision contained in the letter dated 11-7-1990 Another Bench of this Tribunal has disposed of a batch of applications by judgment dated 2-6-1992 in O.A.No.525/92 (Mohd. Safi & Ors. Vs. Delhi Administration & Ors.) and connected matters. In the operative part of the judgment, the Tribunal has upheld the decision of the respondents to repatriate such of those who did not possess the matriculation or equivalent qualification to their parent departments. At the same time, the Tribunal directed the respondents in-so-far as the seven of the applicants before the Tribunal were concerned to file representations, if any, within 2 weeks and produce the material in support of their case that they possess the requisite educational qualification. In that event, the respondents were

Contd...8.

directed to examine their cases for absorption and if they are found eligible and fit for absorption, a decision in that behalf should be taken within four weeks after the receipt of the representations. The Tribunal further directed that until such representations were decided, the seven applicants shall not be repatriated to their parent departments. Barring the case of seven applicants, the applications filed by the others were dismissed and the interim orders were vacated in their cases.

7. The applicants before us are also similarly situated. After hearing both sides, we are of the opinion that similar directions should be issued to the respondents in this batch of applications before us. Accordingly, we uphold the decision of the respondents to repatriate such of those who do not possess the matriculation or equivalent or higher qualification or whose absorption does not have the consent of their parent departments. Subject to what is stated above, the applications before us are disposed of with the following orders and directions :-

(i) The applicants may send representations

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(12)

to the respondents within three weeks from the date of receipt of this Order together with the documents which may substantiate their claim that they possess matriculation or equivalent or higher qualification;

(ii) In case the applicants make such a representation, the respondents shall consider the same and if the applicants possess the requisite qualifications prescribed under the Rules and if they are otherwise found eligible in all respects for absorption as on the date of the passing of the impugned order of repatriation to their parent departments, the respondents shall pass appropriate orders within four weeks after the receipt of the representations;

(iii) Till appropriate orders are passed on such representations, the respondents are restrained from repatriating the applicants to their parent departments. The interim orders already passed will continue till then.

There will be no order as to costs.

Let a copy of this Order be placed in all the case files and a copy be given to both parties immediately.

Original placed in OA 2577/91

True copy

16/7/92

PKK
15071992.

(B.N.DHOUNDIYAL)
MEMBER (A)

(P.K. KARTHA)
VICE CHAIRMAN(J)