

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

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OA.664/91

Date of Decision:08.01.1993

Shri Gulab Singh Gahlot

Applicant

Versus

Delhi Administration and others

Respondents

Shri G.D. Gupta

Counsel for the applicant

Shri V.K. Rao

Counsel for the respondents

CORAM:

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

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

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)

The applicant in this OA, Shri Gulab Singh, is aggrieved that he has not been given appointment as Post Graduate Teacher (Physical Education) in spite of his empanellment for the post by the Staff Selection Board.

2. According to the applicant, he is working as Physical Education Teacher in the Directorate of Education, Delhi Administration. In 1982, his name was sponsored by the Employment Exchange, New Delhi to the Directorate of Education, Delhi Administration in connection with the appointment to the post of PG Teacher (Physical Education). He was interviewed in July 1983 by the Staff Selection Board and his name appeared at Sl.No.5 of the Select List. One of the candidates, who was at Sl.No.3 of the panel, Shri Virender Singh Mann, filed an OA in this Tribunal in 1989 in which the details of these proceedings along with the details of the panel were made

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available. It became clear that the panel was prepared against the then existing and prospective vacancies and that it would remain valid till all the empanelled candidates were appointed. The case of the applicant is fully covered by the Judgement of this Tribunal in OA 399/90, decided on 13.9.90 and the order of the Supreme Court in the case of Union of India Vs. Ishwar Singh Khatri; Civil Appeal No.1988 of 1987 decided on August 4, 1989. The following reliefs have been prayed for:-

(A) allow this Original Application of the applicant with costs;

(B) issue such other order or orders, direction or directions;

- i) declaring the applicant entitled to be appointed to the post of P.G.T.(Phy.Edcn) with effect from the date from which Shri T.P. Sharma, respondent No.3 herein, had been appointed with all consequential benefits, such as, arrears of pay and allowances, seniority, further promotions, etc., to which he would have been entitled had he been offered the appointment to the said post of P.G.T.(Phy.Edn.);
- ii) also declaring the applicant to the benefit of Judgment and Order of this Hon'ble Tribunal dated 13th September, 1990 in OA No.399 of 1990 in the case of Shri Virender Singh Mann versus Delhi Administration and others;
- iii) directing the respondents Nos.1 and 2 not to prepare any fresh Select List/Panel until and unless all the selected candidates in the Select List/Panel prepared in 1983 are appointed; and
- iv) also directing the respondents Nos.1 and 2 to extend the benefit of Judgement and Order of this Hon'ble Tribunal dated 13th September 1990 in OA.No.399 of 1990 in the case of Shri Virender Singh Mann versus Delhi Administration and others and to appoint the applicant to the post of P.G.T.(Phy.Edn.) with effect from the date from which Shri T.P. Sharma, respondent No.3 was appointed to the said post with all consequ-

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uential benefits, such as, arrears of pay and allowances, seniority, further promotions, etc., to which he would have been entitled had he been appointed to the said post from due date; and

(C) issue such other appropriate order or orders, direction or directions, as may be deemed fit and proper to meet the ends of justice.

3. On 19.3.91 an interim order was passed by this Tribunal directing the respondents not to fill up one post of P.G.T.(Physical Education) which had been advertised by the respondents in 1990. This interim order continues till date.

4. The respondents have stated that the applicant could not be appointed, as his name appeared at Sl.No.5, while only two general vacancies were notified to the Employment Exchange. They have admitted that the panel was declared with the remark that it will remain valid till all the selected candidates were appointed. However, vide circular dated 9.11.84, Lt.Governor had decided that the panels drawn on the basis of open competition will have a life time of one year with a provision to extend it by a maximum period of six months or preparation of a fresh panel, whichever was earlier. The applicant could not be given appointment on account of the cancellation of the panel. The applicant was not a party in OA 399/90. Hence, he was not given the benefit granted thereby. The marks given in the interview by the Staff Selection Board cannot be challenged after 7 years.

5. The Department of Personnel and Training have issued revised instructions on 8.2.82 which clarify the question of validity of the panel as under:-

"Once a person is declared successful according to merit list of selected candidates, which is based on the declared number of vacancies the appointing authority has the responsibility to appoint him even if the number of vacancies undergoes a change, after his name has been included in the list of selected

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candidates. Thus, where selected candidates are accommodated or alternatively intake for the next recruitment reduced by the number of candidates awaiting appointment, the candidates awaiting appointment should be given appointments first. before starting appointments from a fresh list from a subsequent recruitment of examination". Similar instructions have also been issued by the Delhi Administration on 14.2.86.

6. We have gone through the records of the case and heard the learned counsel for both parties. The respondents have admitted in their counter that the published panel clearly mentioned that all the empaneled candidates would be given appointments and have relied on the letter dated 9.11.84 to justify cancellation. In our opinion, the ratio in Virendra Singh Mann's case and Ishwar Singh Khatri's case applies to the instant case.

7. In the conspectus of the above facts and circumstances of the case, we hold that the applicant is entitled to succeed. We direct the respondents to consider appointing the applicant as P.G.T.(Physical Education) in accordance with his seniority in the select list i.e. over his juniors in the panel of 1983 and those who may have been appointed ^{through} ~~in~~ the subsequent panels. The above order shall be complied with, expeditiously and preferably, within a period of three months from the date of communication of this order. There will be no order as to costs.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL) 31/1/83

MEMBER(A)

ammb
31/1/83
(P.K. KARTHA)

VICE CHAIRMAN(J)

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