

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 335 OF 2004
WITH
O.A. NO. 336 OF 2004

New Delhi, this the 10th day of February, 2004

HON'BLE SHRI SARWESHWAR JHA, ADMINISTRATIVE MEMBER

OA 335/2004

Shashi Narain S/o Shri Sant Lal,
R/o Jhuggi No. N-18-A-214,
J.J. Colony, Wazir Pur,
Delhi.

(By Advocate : Shri Raj Singh)

.....Applicant

Versus

1. G.N.C.T. OF DELHI
Through its Chief Secretary,
Players Building,
I.P. Estate, New Delhi.
2. The Director of Education,
Directorate of Education,
G.N.C.T., Old Secretariat,
Delhi.
3. The Dy. Director of Education,
North Distt., Lucknow Road,
Delhi.

.....Respondents

OA 336/2004

Rakesh Kumar S/o Shri Durjan Lal,
R/o N/26, Magazine Road,
Majnu Tilla, Civil Line,
New Delhi.

(By Advocate : Shri Raj Singh)

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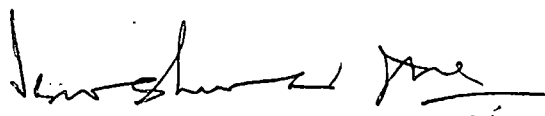
.....Respondents

ORDER (ORAL)

As the cause of action and the reliefs sought in the two OAs are same, both the OAs are disposed of by this common order.

2. At the very outset, the learned counsel has submitted that the posts against which the applicants had been employed are the sanctioned posts by the Government of NCT of Delhi, Directorate of Education vide Sanction Letter dated the 7th August, 2003. It is observed that the respondents have dispensed with the services of the applicants vide their impugned orders dated 22.5.2003 (Annexure A-1 in OA 335/2004) and 19.5.2003 (Annexure A-2 in OA 336/2004) for the reasons stated therein, one of which is that there was a ban on fresh recruitment against the vacant posts of part-time workers vide order dated 21.10.1998 and that the applicants had been appointed inspite of the ban. It is further observed from paragraph 4 (E) of the OA that the respondents reported to have engaged some other persons of their choice without following the recruitment rules and adopting due process of law. While this aspect of the matter would need to be looked into by the respondents, it transpires that the requirement of necessary staff for cleaning work still exists. It also needs to be seen whether the ban, because of which the services of the applicants have been dispensed with, is still there and, if so, whether some other fresh persons have been employed despite the ban.

3. At this stage, the learned counsel for the applicants has also referred to the decision of this Tribunal dated the 3rd April, 2003 given in OA No.2940/2002 in which, among other things, it had also been mentioned that the applicants in the said OA will have preference for appointment over freshers and



juniors. It had also been mentioned in the said order of the Tribunal that in the event ^{of} the posts having been sanctioned and the funds for them having been voted by the Delhi Legislative Assembly for the relevant financial years, the respondents shall give preference to the applicants in the said OA over freshers. It is observed that while the applicants in the present OAs were not applicants in the said OA, but the applicants in the said OA being similarly placed, the right course for the respondents would be to keep the said decision of the Tribunal in mind while dealing with the case of the applicants.

4. Having regard to the fact that there is a sanction for some part-time posts as given by the respondents vide their letter dated the 7th October, 2003 (Annexure A-3) and necessary budget provision is available and also that some persons are reported to have been engaged by the respondents for the same work which the applicants were performing, I am of the view that these OAs can be disposed of at this stage itself while hearing on the point of admission with a direction to the respondents to reconsider the matter in respect of the applicants in the light of the above observation and also in the light of the direction already given by the Tribunal in a similar case as referred to above and to settle the case by issuing a reasoned and speaking order within four weeks from the date of receipt of a copy of this order.

5. Present OAs are accordingly disposed of in terms of above direction.

[Signature]

[Signature]

(SARWESHWAR JHA)
ADMINISTRATIVE MEMBER