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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

...

OA NO. 2834/1992

New Delhi, this the 15th day of Dec., 1997

HON"BLE DR.JOSE P. VERGHESE, VICE-CHAIRMAN(J)
HON"BLE SHRI S.P. BISWAS, MEMBER (A)

AND IN THE MATTER OF :

1. Shri Vijender Kumar
son of Shri Phool Singh,
aged about 31 years,
working as Draughtsman Gr.III(Elec.)
in the office of Executive Engineer(E)
Hot Mix Asphalt Plant, C.P.W.D.,
B-419 I.P. Bhavan, New Delhi
resident of 5876/4, Dev Nagar,
Karol Bagh, New Delhi - 110 005
2. Shri Kuldeep Singh Solanki
son of Shri Baldev Singh Solanki,
aged about 35 years,
working as Draughtsman(E) Gr.III
in the office of Executive Engineer(E)
Electrical Division No.II,
C.P.W.D., New Delhi
resident of Village and
Post Office : KHUNGAL
District Rohtak,
(Haryana)
3. Shri Lokesh Kumar Gandhi
son of Shri Lal Chand Gandhi
aged about 34 years
working as Draughtsman Gr.III
in the office of A.C.D.-2
C.P.W.D., New Delhi
resident of 74, Housing Board
Colony, GURGAON (Haryana)

4. Shri H.C. Upadhyay
son of late Shri D.N. Upadhyay
aged about 34 years
working as Draughtsman Gr.III(E)
in the office of S.W.-II,
O/o C.E.-I, C.P.W.D.,
Vidyut Bhavan, Connaught Place,
New Delhi
resident of 263/II, Mayapuri
Press Colony,
NEW DELHI 110064
5. Shri Pradeep Kumar Khatri
son of Shri Amir Chand Khatri
aged about 34 years,
working as Draughtsman Gr.III(E)
in the office of Executive Engineer(E)
E.D.-II, C.P.W.D., New Delhi
resident of H.No. 47-A, Teliwara,
Shahdara, DELHI - 110032
6. Shri Jai Prakash Sharma
son of Shri Ram Kishan Sharma
aged about 35 years
working as Draughtsman Gr.III(E)
in the office of Executive Engineer(E)
A.C.D.-II, C.P.W.D., New Delhi
resident of H.No. 85,
village & P.O., Burari,
DELHI 110 009
7. Shri Ajay Kumar Kapur
son of Shri V.M. Kapur
aged about 31 years,
working as Draughtsman Gr.III(E)
in the office of C.E.(E)-I,
C.P.W.D., Vidyut Bhavan, New Delhi
resident of A-4/C-102, Janakpuri,
New Delhi 110058
8. Shri Bharat Bhushan
son of Shri Kishan Chand
aged about 31 years
working as Draughtsman Gr.III
in the office of Executive Engineer(E)
Electrical Division No. IV
C.P.W.D., New Delhi
resident of H.No. 419-A Ram Nagar,
GURGAON (Haryana)

9. Shri Praveen Kumar Bansal
son of late Shri K.K. Bansal
aged about 34 years
working as Draughtsman(Elec.)
in the office of Executive Engineer(E)
A.C. Division-I
C.P.W.D., New Delhi
resident of B-1/23, Janakpuri,
NEW DELHI - 110058

10. Shri Dharamvir Sharma
son of Shri Vasdev Sharma
aged 36 years
working as Draughtsman Gr.III(Elec.)
in the office of PWD - ED.I (D.A.)
New Delhi
Resident of F-1/32 D.D.A. Quarters
Sultanpuri, DELHI - 110041

11. Shri Ravi Kumar
son of Shri Shanti Prakash
aged 34 years
working as Draughtsman Gr.III(elec.)
in the office of ED.III C.P.W.D.,
New Delhi
resident of H.No. 467, Rampura,
Delhi - 110035

(By Advocate: Sh. E.X.Joseph) . . . APPLICANTS

- VERSUS -

1. THE Union of India through the
Secretary to the Government,
Ministry of Urban Development,
Nirman Bhavan,
NEW DELHI 110 011

2. The Director General (Works)
Central Public Works Department
Nirman Bhavan
NEW DELHI 110011

3. The Deputy Director of Administration-I
Office of the Director General(Works)
Central Public Works Department
Nirman Bhavan,
NEW DELHI 110 001

(By Advocate: None) . . . RESPONDENTS

ORDER (ORAL)

Dr. Jose P. Verghese, Vice-Chairman (J)-

The case of the petitioners, who were working as Draftsmen Gr. III in the electrical side, is that they were eligible and entitled to consideration for promotion to the post of Draftsmen Gr.II in the C.P.W.D. It was an admitted case of the parties that the petitioners were eligible in accordance with the recruitment rules but since the number of candidates available for filling up these posts were quite large, the respondents in their wisdom brought out a Scheme, according to which the eligible candidates were permitted to appear in a competitive examination and only after passing the said examintion, the Draftsmen Gr.III were made eligible to be promoted to the post of Draftsmen Gr.II. The petitioners accordingly appeared in the said examination and were declared passed in the year 1988. Thereafter no appointment orders were issued rather by an order dated 31.1.1991 the respondents withdrew the said Scheme by which the petitioners were required to appear in the test without making any provision regarding those candidates who had already appeared and passed in the said examination. Subsequently, by a letter dated 21.10.1991 the respondents further directed that the posts of Draftsmen Gr. III will be filled up on the basis of seniority-cum-fitness and the said orders will be effective from 1.11.1991. It was also further pointed out by the counsel appearing on behalf of the petitioners that the decision to withdraw the said Scheme is admittedly on the basis of a representation given by the petitioners' Association but the petitioners Association's representation was infact to withdraw the Scheme after exhausting the panel that existed upto 1.11.1991.

2. It was also stated by the counsel for the petitioners that even though the Scheme for conducting written test was withdrawn, the said withdrawal was made effective only in the electrical side of the Draftsmen in CPWD and in the civil side the respondents continued to implement the Scheme of holding the test and all those draftsmen in the civil side who passed the required written test were infact promoted as Draftsmen Gr.II without applying the subsequent criteria of seniority-cum-fitness. It was further submitted that application of two different criteria, with reference to the Draftsmen Gr.III belonging to civil and electrical side, is discriminatory and therefore is in violation of principle of equality contained in Article 14 of the Constitution of India.

3. It was also further submitted that since the Scheme of conducting a written test has been introduced unilaterally by the respondents and since the petitioners have undertaken the said written test and declared passed and thereafter again to withdraw the same unilaterally against the interest of the petitioners would not be an action in accordance with law. The contention of the petitioners is that the respondents need to be estopped and direction may be issued in favour of the petitioners on the basis that they had appeared in the test and were declared passed in the year 1988 itself and subsequently to withdraw the same Scheme to the disadvantage of the petitioners, and that too, in a discriminatory manner vis-a-vis Draftsmen in the civil side, is contrary to various decisions of the Hon'ble Supreme Court contained in the matter of Union of India and Ors. vs. Anglo Afgan Agencies reported in AIR

1968 SC p. 718 and Moti Lal Padambhat Spinning Mills Ltd.

Vs. State of Uttar Pradesh reported in AIR 1979 SC p.

621.

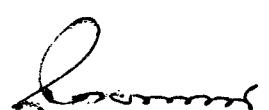
4. After notice, respondents have filed their reply stating that they have implemented the subsequent decision to promote the Draftsmen Gr.III to Draftsmen Gr.II on the basis of seniority-cum-fitness only at the request of the members of the Staff and as such the said written test, not being part of the recruitment rules, no illegality has been committed by withdrawing the Scheme.

5. We have considered the entire aspects of the case and we find that the respondents could not have resorted to a different method of selection for promoting Draftsmen Gr.III to Draftsmen Gr.II after a departmental test has been directed to be held and the petitioners appearing in the test were declared passed and thereafter cancelling the same unilaterally to the disadvantage of the petitioners. In our opinion the principle of promissory estoppel, as envisaged by the Supreme Court in the above said cases, will squarely apply to the present case. Moreover, we are also of the firm view that the respondents have committed discrimination vis-a-vis the Draftsmen Gr.III in the civil side and the petitioners to the extent that the said Scheme of conducting test have been applied even after withdrawal of the same to the draftsmen in the civil side and the persons who have passed the written test have been given appointment in spite of the fact that they have withdrawn the Scheme of departmental test at the instance of the same respondents authority.

6. On perusal, we find that these averments were not made in the original application rather it was stated only in the rejoinder. But since the rejoinder has been filed as early as on 15.12.1993, ample opportunities were available to the respondents to rebut these allegations of discriminatory action and since no rebuttal to the said allegations is available on file, we also proceed to pass a direction on the ground of discriminatory treatment vis-a-vis the Draftsmen on the civil side and the electrical side.

7. It was further stated that even though there are 11 applicants in the present case, 7 out of these 11, have already been promoted and no further relief for them is being sought in this OA. The petitioners have candidly agreed to confine the relief to petitioners No. 1,2,7 & 11 since these petitioners, and even though they have passed the required departmental test since 1988, they have not been promoted; it will be fit and proper for us to direct that the respondents shall consider the case of the petitioner for promotion w.e.f. one year prior to the date of filing of this OA and to give appropriate relief also by way of consequential benefits.

8. With this, this OA is disposed of with no order as to costs.



(S.P.Biswas)
Member (A)



(Dr. Jose P. Verghese)
Vice-Chairman (J)

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