

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. No. 188/93

New Delhi this the 29 Day of May 1998

Hon'ble Shri Justice K.M. Agarwal, Chairman  
Hon'ble Shri R.K. Ahooja, Member (A)

1. Manohar Bhardwaj,  
Son of Shri B.D. Sharma,  
R/o 2222 Lodhi Road Complex,  
New Delhi-110 003.
2. Maya Prakash,  
Son of Shri (Late) Gaya Prasad,  
R/o 938 Janata Flats,  
Nand Nagri,  
Delhi-110 093
3. Gazanand Rao,  
S/o Shri Narayan Rao,  
R/o A-258 Tigri,  
New Delhi-110 062.
4. Ranbir Singh,  
S/o Shri Machar Singh,  
R/o No. 1337, Sector 5,  
R.K. Puram,  
New Delhi-110 092.

Petitioner

(By Advocate: Shri B.B. Raval)

-Versus-

1. Union of India,  
through the Secretary,  
Ministry of Home Affairs,  
Govt. of India, North Block,  
New Delhi
2. The Director General,  
Bureau of Police Research & Development,  
Ministry of Home Affairs,  
CGO Complex,  
Lodhi Road, New Delhi,

Respondents

(By Shri K.C.D. Gangwani)

ORDER

Hon'ble Shri R.K. Ahooja, Member (A)

The issue which arises in this case is whether persons promoted on the basis of the limited departmental examination can be reverted on the suspicion that the examination was not properly conducted even though no allegation of misdemeanor are attributed to them.

On

2. Applicant Nos. 1 & 2 were initially promoted as Lower Division Clerk (LDC) on ad hoc basis in 1984, and 1983 respectively and applicant No. 3 was promoted on regular basis w.e.f. 30.5.1990. Applicant No. 1 was regularised w.e.f. 24.8.1990 and applicant No. 2 w.e.f. 31.5.1990. These regularisation were made on the basis of limited departmental examinations held on 29.1.1990 and 6.8.1990. Thereafter an order dated 19.1.1993 was issued that the two examinations aforementioned were being cancelled on administrative grounds and therefore four officials including the three applicants were reverted to Group 'D' post. It is this order at Annexure 'A' which is being contested. (15)

3. The respondents in the counter statement submit that the two limited departmental examination were cancelled because of certain irregularities. The first examination on 29.1.1990 had been held in lieu of an earlier examination in November 1989 which action was alleged to be arbitrary and without any reason. The respondent say that the examination in 1989 was cancelled because of certain manipulation to accommodate one person who could not secure good marks and was on the bottom of the merit list. The same person topped the merit list in the examination held on 29.1.1990. This cast reasonable doubt about the fairness of the examination held on 29.1.1990. Similarly, in respect of the 2nd examination, the respondents say that applicant No. 1 Shri Bharadwaj had approached the Tribunal and directions were given by the Tribunal that he should be allowed to sit in the limited departmental examination. The department conducted an examination accordingly on 6.8.1990 but only for Shri Bhardwaj without allowing the participation of other Group 'D' employees. It was considered favouritism in favour of

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Shri Bhardwaj. The respondents say that in view of the aforesaid shortcomings and irregularities it became necessary to cancel the two examination so that there is no unfair and partial treatment to the detriment of other Group 'D' employees. (16)

4. We have heard the counsel. The applicants are still continuing today as Lower Division Clerks on the strength of an interim order issued in 1993 which was later confirmed pending the regular hearing of the OA. As regards the merits of the case we find that there is no allegation of if any misconduct, manipulation or irregularity against the applicants herein. The respondents say that they suspect that 1990 examination was not conducted fairly as someone who could not make the grade in 1989 came to top the list in 1990. It is not said that this person was one of the three applicants. If the respondents had any suspicion about a particular candidate then it would have been proper for them to make proper enquiries to fix responsibility and to take action against the guilty person. If there is no allegation against the applicant they cannot be punished for something the respondents themselves are guilty of in as much as they or their officers did not take the correct decision. Similarly in respect of Applicant No. 1 if the respondents conducted a special examination it is not his fault that other group 'D' officials were not allowed to participate therein. We also find no indication that before the issue of the impugned order any opportunity was afforded to the respondents to show cause. We note also that the first two applicants have been officiating as LDC from the services way back in 1983-84 and now the respondents propose as well to take away their regularisation as well as ad hoc promotion on a considerable long standing. We have no doubt whatsoever

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that in the circumstances the action of the respondent is  
contrary to principles<sup>of</sup> natural justice and without any legal  
basis whatsoever.

(1X)

In the light of the above discussion the OA succeeds.  
The impugned order dated 19.1.1993<sup>is</sup> quashed.  
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*Km*

(K.M. Agarwal)  
Chairman

*R. K. Ahoja*

(R.K. Ahoja)  
Member (A)

\*Mittal\*