

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCHOriginal Application No. 2454 of 1993New Delhi, this the 30th day of July, 1999Hon'ble Mr. Justice K.M. Agarwal, Chairman
Hon'ble Mr. N. Sahu, Member (Admnv)Dinesh Kumar s/o Sh. Bharat Singh,
resident of D-43 Central Jail,
Tihar, New Delhi

- APPLICANT

(By Advocate - Shri A.K. Behra through
proxy counsel Shri Sant Lal.)Versus

1. Govt. of N.C.T. of Delhi through
its Chief Secretary, Sham Nath
Marg, Delhi.
2. Inspector General of Prison, Central
Jail Tihar, New Delhi.

- RESPONDENTS

(By Advocate - None)

O R D E RBy Mr. N. Sahu, Member (Admnv) -

The prayer in this Original Application is to direct the respondents to declare first the result of the skill test held on 28.9.1992 before declaring the result of the test held on 29.10.1993 for appointment to the post of Driver.

2. The basic facts leading to this dispute are that eligibility for selection to the post of Driver is confined to Group 'D' employees including Warders in the establishment of respondent no. 2, Central Jail Tihar, New Delhi. The applicant was a Warder in 1986 and he was appointed and continued to function as a Driver with an honorarium of Rs. 4/- per day because he held a valid driving licence. On the directions of Administrative Tribunal the scale of Warders was raised to Rs. 950-1400. As a result the Warders became Group 'C'. Meanwhile, respondent no. 2 secured the sanction of additional 8 posts of Drivers and to fill up those posts conducted a skill test on 28.9.1992 with the

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help of the Transport Department after inviting applications from Group 'D' staff of the Jail Department. A DPC was also fixed for 1.10.1992 for eventual selection. Meanwhile, an objection was received from the Home Department, Govt. of NCT that the post of Drivers have to be filled up only amongst Group 'D' employees according to the Recruitment Rules. Column 11 of the Recruitment Rules (Annexure-R-1) states that in case of promotion to Drivers, it should be from amongst Group 'D' employees having a driving licence subject to passing of a skill test. The respondents state that as the applicant's pay scale was enhanced upgrading the Warders to Group 'C', he became ineligible for consideration to the post of a Driver. In the rejoinder it is submitted that options had already been given to apply to the post of Driver to the applicant and the eligibility for consideration was to be determined with reference to the last date of receipt of the application. This subsequent communication of the Home Department should not have interfered with the process of selection. It is also stated that the applicant had been working as Driver with effect from 17.12.1987 continuously. Several instances were cited by which other candidates who were Warders were considered and appointed as Drivers.

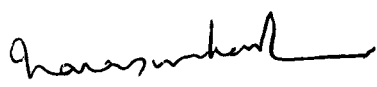
3. We have carefully considered the submissions. We are of the view that the respondents are obliged to follow the Recruitment Rules. If the Recruitment Rules say that only Group 'D' employees be considered eligible for Drivers on promotion, they could not have considered the applicant's case. Any recruitment has to be done only in accordance with the Recruitment Rules. If out of sympathetic consideration the respondents conducted the

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test, they were in time prevented from completing the test because of the Recruitment Rules. The applicant cannot as a matter of right insist that the result of the test be declared and he be appointed. If the respondents realised their mistake and stopped the process of selection, it was on proper and legitimate grounds. No Court can question the right of a recruiting authority if it states that as the recruitment was not in accordance with the recruitment rules they have abandoned further process of recruitment.

4. In the result, the O.A. is dismissed. No costs.


(K.M. Agarwal)
Chairman


(N. Sahu)
Member (Admnv)

rkv.