

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 6th day of July, 2001.

Original Application No.1715/1993.

CORAM :-

Hon'ble Mr. Justice RRK Trivedi, V.C.

Hon'ble Maj Gen KK Srivastava, A.M.

1. Om Prakash Son of Late Sri Lakhan Lal, R/o Village Dharampur Thakuran, PO-Mohanpur Thirya, District-Bareilly(U.P.)
2. Washeem Ahmad Son of Shri Rasheed R/o Dhelepeer, Post-Izzatnagar, Bareilly U.P.
3. Upendra Kumar Rastogi Son of Late Sri D.V. Rastogi R/o Mohalla Khannu 53, Rasewardhan, Bareilly (U.P.)
4. Dharam Pal Son of Sri Puttu Lal, R/o C-699, Patel Nagar Avas Vikas Colony, Bareilly (U.P.)

(Sri KP Singh, Advocate)

• • • • • Applicants

Versus

1. Union of India through the Secretary for Agriculture, Ministry of Agriculture, Government of India, Krishi Bhawan, New Delhi.
2. Indian Council of Agriculture Research (ICAR) Through its Secretary (ICAR) Krishi Bhawan, New Delhi.
3. The Director, Indian Veterinary Research Institute (IVRI) Izzatnagar, Bareilly (U.P.)

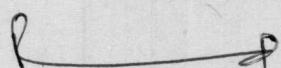
(Sri Rakesh Tewari, Advocate)

• • • • • Respondents

O R D E R (O_r_a_1)

By Hon'ble Mr. Justice RRK Trivedi, V.C.

By this OA under Section 19 of the Administrative Tribunals Act, 1985 the applicants have prayed for a direction to the respondent no.3 not to terminate the services of the applicant from the post of driver serving on ad hoc basis since long in Indian Veterinary Research Institute, Izzatnagar, Bareilly (in short IVRI). It is



also claimed that the services of the applicants be regularised on the post of Drivers w.e.f. 1986-87. The applicants have also challenged the order dated 5-11-1993 by which the services of the applicants as drivers were terminated.

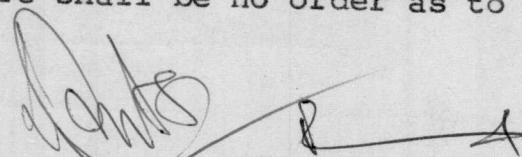
2. The facts of the case in short giving rise to this controversy are that the applicants were called for selection on 05-8-1986. They were interviewed and selected for appointment as Drivers. The appointment order was issued on different dates. Copies of the appointment orders have been filed as Annexure-A-3, 4, 5 and 6. The applicants joined the post. The appointment initially was for a period of one year, which was extended from time to time when by the order dated 5-11-1993 their services were sought to be terminated. A copy of the order has been filed as Annexure-A-1. The reason stated in the order was that the services of ad hoc drivers who do not fulfil the required qualifications for the post of drivers as prescribed in the New Recruitment Rules are being terminated. The applicants' contention is that they satisfied the conditions for appointment as drivers according to old rules and on the date they joined the post they were fully qualified and they cannot be terminated from service on the ground that they do not satisfy the conditions provided in New Recruitment Rules. This controversy came up for consideration of this Bench in OA No.1718/1993 - Bhoory Khan Vs. UOI & Ors. Sri Bhoory Khan was a Driver in IVRI and was also selected alongwith the applicants. For all material purposes the facts of the present OA are similar to the facts of the OA filed by Bhooray Khan. The Division Bench while allowing the OA on 18-12-2000 gave the following directions :-

"Under the circumstances, the order dated 5-11-1993 is clearly bad in law, because the applicant did fulfil required qualifications when the proposal for his regularisation was made. The order dated 5-11-1993 is, therefore

set aside. The respondents are directed to consider regularisation of services of the applicant on the post of Driver in Veterinary Research Institute with effect from the date he completed experience of 3 years of service required vide new Recruitment Rules. The compliance of this direction shall be made within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs."

3. In the present case the actual position as determined "as is clear from Annexure-3, is that the applicants Sri Dharam Pal and Sri Upendra Kumar Rastogi were allegedly overage under the new Recruitment Rules. Sri Dharam Pal is overage by 10 months and 26 days, whereas Sri Upendra Kumar Rastogi is overage by six months. Applicant no. 1 Sri Om Prakash and applicant no. 2 Sri Washeem Ahmad lacked experience. Sri Om Prakash lacked experience by one year seven months, whereas Sri Washeem Ahmad lacked experience by 2 years 7 months. It is not disputed that the applicants are still serving in the institute as Drivers, and they fully satisfy the conditions under old rules. They are entitled for the relief in the same manner as granted in case of Sri Bhoorey Khan.

4. The OA is accordingly allowed. The respondents are directed to consider regularisation of services of the applicants "the applicants" on the post of Drivers in the IVRI with effect from the date they completed experience of three years of service required by new Recruitment Rules and the applicants who are overage shall be given relaxation with regard to the age by the competent authority. The compliance of this direction shall be made within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs.


Member (A) Vice Chairman

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