

O.A./66/87

with

MA/517/88

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Shri B.P.Vankar,  
A/8/5, Vejalpur,  
P & T Colony,  
Satalite Road,  
Jodhpur Village,  
Ahmedabad.

: Applicant

Versus

1. Union of India

Through:  
The Secretary,  
Dept. of Telecomm-  
unications, Ministry  
of Communications,  
Govt. of India,  
New Delhi.

2. Divisional Engineer,  
Telegraphs, Himatnagar,  
Divisions, Nirali  
Hospital Building,  
2nd Floor, Himatnagar.

3. The General Manager,  
Telecommunications,  
Gujarat Circle,  
Ambica Chambers,  
Navrangpura,  
Ahmedabad.

: Respondents

Coram : Hon'ble Mr. P.H.Trivedi

: Vice Chairman

Hon'ble Mr. R.C.Bhatt

: Judicial Member

ORDER

Date: 18-2-1991

Per: Hon'ble Mr. P.H.Trivedi

: Vice Chairman

Heard Mr.P.C.Master and Mr.P.S.Chapaneri for  
Mr.P.M.Kaval, learned advocates for the applicant and the  
respondents respectively.

Learned advocate for the petitioner has satisfactorily  
established that the petitioner went through the selection  
test for Himatnagar Telegraph Engineer Division for a  
post of Motor Driver as per memo dated 24.7.1984 and the  
Departmental Promotion Committee having found him fit and  
recommended he was selected to that post wide Memo at page  
Annexure 'H'. The respondents have taken confusing and

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contradictory stand in their replies to the case and in the Misc. Application stating that one stage the DPC had cleared the petitioner but the appointing authority failed him in the theoretical test and at another place they have stated that the petitioner failed in the practical test. We find that the DPC had covered both oral and practical test and the respondents though invited could not show the rules prescribing separately theoretical and practical test and whether Departmental Promotion Committee ~~had~~ within <sup>it</sup> the purview only one of them and appointing authority was thereafter competent to hold the theoretical test and/or any other test. The ground taken by the respondents is that the selection ~~was~~ <sup>be</sup> ~~the~~ would not follow by an appointment order because there was no sanction <sup>of</sup> post as well as ~~of~~ <sup>due to</sup> a ban which was imposed by the Govt. and there is no impediment that we <sup>were</sup> can show or can discover on the lifting of the ban to the appointment of the petitioner on a regular basis. We therefore declare the petitioner to be entitled to a regular appointment as the Driver in Himatnagar Division on a regular basis from the date on which the sanction post was available under relevant Govt. orders on the lifting of the ban and directed that the respondents ~~be~~ passed necessary orders of appointment in terms of the above directions within three months of the date of this order. We find merit in the petition to the extent stated. No order as to costs. MA/517-88 also stands disposed of.

*R.C.Bhatt*

(R.C.Bhatt)  
Judicial Member

*P.H.Trivedi*

(P.H.Trivedi)  
Vice Chairman

M.A./307/89

in

O.A./66/87

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CORAM : Hon'ble Mr. P.H. Trivedi .. Vice Chairman

Hon'ble Mr. P.M. Joshi .. Judicial Member

21/6/1989

Heard Mr. P.G.Master and Mr. J.D. Ajmera, learned advocates for the petitioner and respondents respectively. The misc. petition reports a subsequent order dated 15.5.1987 whereby the petitioner having been engaged as Motor Driver and not paid wages thereof. The respondents have filed reply showing reasons for this. The main application O.A./66/87 made on 9.2.1987 being prior to the order dated 15.5.1987 on which the petitioner relies clearly ~~hand~~ the basis for his grievance in the misc. petition has arisen subsequently and accordingly the interim relief sought in this petition is not arising out of the main case and it should be pursued by the separate application if the petitioner has any cause for it. Accordingly M.A./307/89 not allowed and disposed of.

*Phew*

( P H Trivedi )  
Vice Chairman

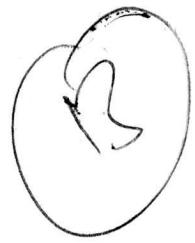
*Joshi*  
( P M Joshi )  
Judicial Member

\*Mogera

C.A./56/88

in

OA/66/87



Coram : Hon'ble Mr. P.H. Trivedi

: Vice Chairman

Hon'ble Mr. D.K. Agrawal

: Judicial Member

29.10.1990

Heard Mr.P.C.Master and Mr.T.H.Sompura for Mr.P.M.Raval learned advocates for the applicant and the respondents. By our order dated 22.5.1987 there was a direction to the respondents not to fill up the post of the Driver until the disposal of the case. By our subsequent order dated 2.4.1990 it was directed to that respondent to file an affidavit regarding the vacancy of the post of Driver. By further reply dated 16.4.1990 the respondents has clearly stated that there is one vacancy available of Driver in the Sabarkantha district at Himatnagar division. We therefore, do not find any violation of the directions given in terms. Learned advocate for the petitioner has tried to make out case that the post required to be kept vacant is different from the post stated in the further reply to be kept vacant and that the post is not in the division or that the nature of the post is also different from that contemplated in the order referred to. We do not find that the respondents are in this way limited by the directions in terms and therefore we do not find that the plea of the learned advocate for the petitioner raised has made out the case that any contempt has been committed. Therefore no further proceedings will lie. With this order, the case is disposed of.

  
(D.K.Agrawal)  
Judicial Member

  
(P.H.Trivedi)  
Vice Chairman

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Cont. Appln. No. 56/88 in

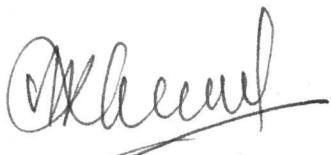
O.A./66/87

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Coram : Hon'ble Mr.P.H.Trivedi : Vice Chairman  
Hon'ble Mr.A.V.Haridasan : Judicial Member

2/04/1990

Heard Mr.P.C.Master and Mr.Jagdish Yadav for Mr.J.D.Ajmera the learned advocates for the petitioner and the respondents respectively. Learned advocate for the respondents states that one post at Himatnagar was vacant and there is no contempt. It is not stated in the reply, that on the date on which the post was filled up <sup>was vacant</sup> and not one post of Driver at Himatnagar. Respondent No.2 allowed ten days time to file affidavit.

  
( A.V.Haridasan )  
Judicial Member

  
( P.H.Trivedi )  
Vice Chairman

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