

DATE OF ORDER : 05.04.1999.

ORIGINAL APPLICATION NO. 12/1998

Ishwar Lal S/o Kishna Ram Balai, R/o Bhagwat Ki Kothi,  
Jodhpur aged 29 years.

.....APPLICANT

VERSUS

1. Union of India through Secretary, Ministry of Defence,  
Army Headquarters, New Delhi.

2. Administrative Officer, Major for Commandant, 6  
F.O.D.(Fields), Ordinance (Depot), C/o 56 A.P.O., Jodhpur.

3. Suraj S/o Jagdish, Motor Driver C/o 56 A.P.O., Jodhpur ( 6  
F.O.D.).

.....RESPONDENTS

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HON'BLE MR. A.K.MISRA, JUDICIAL MEMBER

HON'BLE MR. N.P.NAWANI, ADMINISTRATIVE MEMBER

PRESENT :

Mr. B.N.Calla, Counsel for the Applicant.

Mr. D.K.Chouhan Brief holder for

Mr. D.K.Parihar, Counsel for the Respondent No. 3.

Mr.Trilok Singh, LDC, 6 F.O.D., Jodhpur, Departmental  
Representative, present on behalf of the Respondents. No.1  
and 2.

ORDER

(PER HON'BLE MR. A.K.MISRA)

The Applicant has filed this Original Application with  
the prayer that the impugned order dated 6.1.1998 (Annexure  
A-1) regarding selection of Respondent No. 3 as a Civilian  
Motor Driver, be quashed and the respondents be directed to  
make selection for the post of Civilian Motor Driver in

accordance with Military Training Directorate Group 'C' and Group 'D', Recruitment Rules, 1976 (hereinafter referred to as 'the Recruitment Rules'),

2. The applicant had also prayed for staying the operation of impugned order dated 6.1.1998 (Annexure A-1). However, the prayer of interim relief was not granted.

3. Notice of the Original Application was given to the respondents who have filed their separate replies to which the applicant has filed a rejoinder.

4. The contention of the applicant is that in pursuance of official respondents' Notification the name of the applicant and few others, was sponsored by the Employment Exchange for filling the post of a Civilian Driver. The candidates had faced the interview board. The respondents had selected respondent No. 3 for the post of a Civilian Motor Driver. It is further contended by the applicant that the composition of Selection board was not in accordance with the Recruitment Rules, therefore, the selection is required to be quashed. It is also contended ~~It is also contended~~ by the applicant that respondent No. 3 did not possess the requisite qualification and was otherwise ineligible for appointment. Therefore, the Original Application deserves to be accepted.

5. The official respondents had replied that the composition of the recruitment board was proper, the board which the applicant has described in his O.A. for the said recruitment of Civilian Motor Driver was not required to be constituted for the post in question. The Board was constituted as per the recommendation of the CPRO No. 50/76 dated 2.9.1970. The Board which the applicant has described is relating to promotions of M.T.Driver Grade-II. The

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respondents have filed alongwith their reply, copy of Schedule relating to the recruitment of persons on the post in question and in respect of promotion of Motor Drivers Grade-II. The respondents have further stated that the application has no merits and deserves to be dismissed.

6. The respondent No. 3 has stated in its reply that he was a duly selected candidate by a properly constituted board. The applicant had faced the board and had remained unsuccessful, therefore, the applicant cannot challenge the selection on the ground of improper constitution of board etc. The Original Application deserves to be dismissed.

7. We have heard the learned counsel for the parties and the departmental nominee and gone through the record.

8. Both the sides had advanced their arguments relating to their pleadings.

9. The learned counsel for the applicant has stated that the selection board was not a properly constituted board, but he has not been able to show us any provision which may reveal that the selection board was required to be constituted by including the persons/officials as stated in the O.A. The respondents have filed alongwith reply Annexure R-1 in two pages which are actually two Schedules. First Schedule relates to recruitment of M.T.Driver Grade-II Scale RS. 260-6-326-350 ( 950-20-1150-EB-25-1400) and the other one relates to promotion of M.T.Driver Grade-II to Grade-I, Scale Rs. 320-6-326-8-390-10-400. In the Schedule relating to M.T.Driver Grade-II in column 13, it is specifically mentioned that the Departmental Promotion Committee and its composition is not applicable and the procedure of recruitment is by transfer failing which by direct

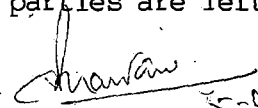
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recruitment. The applicant and the respondent No. 3 and few others were the candidates relating to the post of Civilian Motor Driver Grade-II, Scale Rs. (950-20-1150-EB-25- 1400), ,therefore, the Board which was required to be constituted for filling the post of Motor Driver Grade-I ~~for~~ promotion of candidates from Motor Driver Grade-II, is not applicable in the instant case. The Board which the applicant has described in the O.A.required to be constituted in respect of promotion of M.T.Driver GRade-II to M.T.Driver GRade-I. The only procedure for such post is by way of promotion. Thus, it is very clear that for two categories of Civilian Motor Drivers, two different recruitment procedures are required to be followed. The Board constituted for consideration of candidates for promotional post is not required to be constituted for purposes of direct recruitment of candidates for the post of M.T.Driver Grade-II, as is contended by the applicant. Needless to repeat , the applicant has not been able to show us that for purpose of recruitment of Civilian Motor Driver Grade-II a particular selection board consisting of various categories of officers was required to be constituted. Therefore, the procedure adopted in selecting the candidate cannot be found laconic. It may <sup>be</sup> mentioned here that the applicant had faced the board as was constituted by the authorities. He remained unsuccessful, therefore, he cannot challenge the validity of the selection board <sup>saying that</sup> if the board was defective or was not properly constituted. He should have objected to it at the begining of the interview. In our opinion, the Original Application has no merits.

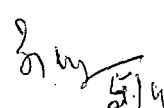
10. It was also brought to our notice that due to discovery of certain facts even the respondent No. 3 is not found fit to be appointed and the next candidate may be considered for such appointment but we would not go into the details and

reasons for which respondent No. 3 is not found eligible to be appointed. It is informed that another O.A. on behalf of respondent No. 3 is pending and our expressing any opinion about his eligibility etc. would affect the merits of the other O.A. Therefore, we would not discuss matters relating to selection and appointment of respondent No. 3.

11. In our opinion, the Original Application has no merits and deserves to be dismissed and is hereby dismissed. The parties are left to bear their own cost.

  
(N.P. NAWANI)  
Adm. Member

5-4-99

  
(A.K. MISRA)  
Judl. Member

5/4/99

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