

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

Date of Order : 12.12.2001

1. O.A.NO. 278 of 1998

2. O.A NO. 203 OF 1998

3. O.A.NO. 220 OF 1999

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1. Ram Avtar S/o Shri Bansi Lal aged about 46 years R/o KPB, MES Colony, Lalgarh Jatan at present employed on the post of FGM SK, in the office of Garrison Engineer, Lalgarh Jattan, Sriganganagar.

2. Ram Avadh S/o Shri Dhari Singh aged about 43 years R/o KPB, MES Colony, Lalgarh Jattan, at present employed on the post of FGM SK, in the office of Garrison Engineer, Lalgarh Jattan, Sriganganagar.

3. Moti Ram S/o Shri Kashi Ram aged about 42 years, R/o KPB, MES Colony, Lalgarh Jatan, at present employed on the post of FGM SK, in the office of Garrison Engineer, Lalgarh Jatan, Sriganganagar.

Hari Kishan S/o Shri Bandhu Ram aged about 42 years R/o KPB, MES Colony, Lalgarh Jattan, at present employed on the post of FGM SK, in the office of Garrison Engineer, Lalgarh Jattan, Sriganganagar.

...Applicants.
In O.A.278/98

1. Rameshwar Lal S/o Shri Goma Ram aged about 38 years, R/o Vill. & P.O. Pabana Maundy, Nawajgarh, Distt. Jhunjhunu at present employed on the post of FGM SK in the office of Garrison Engineer MES Lalgarh Jattan, District Sriganganagar.

...Applicant
In OA 203/98

Versus

1. Union of India through Secretary to Government of India, Ministry of Defence, Raksha Bhawan, New Delhi.

2. Commander Works Engineer, Sriganganagar.

3. Shri Kailash Ram FGM HS-II, Under G.E., Lalgarh Jattan, Dist. Sriganganagar.

...Respondents
In OAs 278 & 203/

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1. Sohan Lal S/o Shri Nanak Ram aged about 32 years, R/o MES, Key Personnel Qtrs. No. 7/8, Lalgarh Jattan, at present employed on the post of FGM Gde. II, MES No. 374095, in the office of GE, Lalgarh Jattan, MES, Distt. Sriganganagar.
2. Bhagwana Ram S/o Shri Laxman Ram, aged about 35 years, R/o Village and Post Nehru Colony, Nathawala Distt. Sriganganagar, at present employed on the post of FGM Gde. II, MES No. 372953, in the office of GE, Lalgarh Jattan, MES, Distt. Sriganganagar.
3. Shiv Karan S/o Shri Nathu Ram aged about 34 years, R/o Village and Post Nihar Khera, Distt. Ferozpur, at present employed on the post of FGM Gde. II, MES No. 372925, in the office of GE, Abhor Punjab.

...Applicants.
In O.A.No.220/99

Versus

1. Union of India through Secretary to Government of India, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Commander Works Engineer, MES, Sriganganagar.
3. Shri Ram Kedar FGM HS I MES NO. 358856, Under GE Abhor, MES, Punjab.
4. Shri Kailash Ram, FGM, HS I, MES NO. 370683.Under GE,Lalgarh, MES Distt. Sriganganagar.
5. Chief Engineer Western Command, Chandimandir - 134 107.

...Respondents.
In O.A.NO.220/99.

CORAM :

HON'BLE MR.JUSTICE O.P.GARG, VICE CHAIRMAN
HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

Mr. J.K.Kaushik, Counsel for the applicants in all OAs.

Mr. S.K.Vyas, Counsel for respondents 1 & 2. } In OA Nos. 278 & 220
None present for respondent No. 3.& 4. } 98 & 99

Mr. Kuldeep Mathur,Adv.Brief holder for
Mr. Ravi Bhansali, Counsel for respondents 1 and 2. } In OA 203/98
None present for respondent No.3 } 99

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: O R D E R :

(per Hon'ble Mr. Justice O.P. Garg)

In all these three cases, common questions of facts and law arise, and hence, we are disposing all of them by this common judgement.

2. In these Applications the moot point for determination is whether illiterate persons are to be provided helpers for reproducing in writing the replies given by them orally. The applicants are working on the post of FGM SK and they are seeking promotion to the post FGM HS-II for which a written test is required. Since The applicants are illiterate persons, they are not in a position to write. The departmental authorities in the past have provided the facility of helper to those persons who were illiterate and were actually promoted to the higher post. This facility is being denied to the applicants. Aggrieved, the applicants have come up before this Tribunal by filing these three applications under Section 19 of the Administrative Tribunals Act, 1985.

3. Earlier this Tribunal had directed the respondents to produce a copy of the Notification or the Rules or orders making a provision for providing a helper to illiterate persons. Shri Kuldeep Mathur, learned counsel for the respondents states that no such notification or order is available, making a provision for deputing a helper with the illiterate persons in a written test. He has produced before us a letter dated 15.09.2001, written by the Garrison Engineer, Lalgarh Jattan. Shri Kuldeep Mathur frankly concedes that there is no prohibition for providing a helper in a written test to a illiterate employee. The answers given orally are written for record, with a view to test the technical knowledge of the employee concerned, whose case is to be considered for the purpose of promotion.

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4. It appears that a different yardstick is being applied by the departmental authorities in not providing helpers to the applicants in the written test while such a facility has admittedly been extended in the past to the other illiterate employees. There does not appear to be any plausible reason to deny the benefit of a helper to the applicants in the absence of any prohibition or orders to the contrary. We feel that it would be proper and in all fairness justified if the benefit of a helper is extended to the applicants in the written test for promotion.

5. In the result, we find that the applicants have made out a genuine grievance. We finally dispose of all the three applications (OA No. 278/1998, OA No. 203/1998 and OA No. 220/1999), with a direction to the respondents that the test for promotion of the applicants for the post of FGM HS-II shall be taken within a period of three months from the date the certified copy of this order is served on the respondents/competent authority. During the said written test, the applicants shall be provided the helpers to ~~wright~~ ^{write} the answers of the replies given by the applicants orally ~~up~~ to the questions put to them. No order as to costs.

Sd/-
(Gopal Singh)
Member (A)

Sd/-
(O P Garg)
Vice Chairman

प्रताणित सही प्रतिलिपि
गोपाल सिंह (न्यायिक)
केन्द्रीय प्रशासनिक अधिकरण
जोधपुर