

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI**

CAMP AT AURANGABAD

ORIGINAL APPLICATION NO. 720/ 1997

WEDNESDAY, THE EIGHTH DAY OF AUGUST, 2001

CORAM:

**SHRI JUSTICE BIRENDRA DIKSHIT. VICECHAIRMAN.
SHRI M.P. SINGH. MEMBER (A)**

1. Shri Ram Moorthy Swamy, T.No.406
2. Shri S.K. Phalke, T.No.416.
3. Shri L.M. Tendulkar, T.No.436.
4. Shri M.S. Bhangare, T.No.436.
5. Shri K.A. Nemane, T.No.437.
6. Shri V.V. Darge, T.No.443.
7. Shri B.V. Dhangar, T.No.445.
8. Shri R.A. Gawade, T.No. 472. ... Applicants

All residing at Armd Static Wksp, EME, Ahmednagar working as VM/MV at Armd Static Wksp EME at Ahmed Nagar.

By Advocate Shri A.S. Amale with Shri Yelwe.

Vs.



1. Union of India through the Secretary, Ministry of Defence, New Delhi.
2. The Director General of EME, Army Headquarters, D.H.Q.P.O., New Delhi.
3. Major General, EME, Southern Command, Pune-1.
4. The Commandant, Armd Static Wksp. EME, Ahmednagar.

... Respondents

By Advocate Shri R.K. Shetty.

ORDER (ORAL)

Hon'ble Shri M.P. Singh.

Member (A)

The applicants have filed this OA under section 19 of the Administrative Tribunals Act, 1985 and have sought the relief by praying for direction to the respondents to appoint /promote them to the post of Vehicle Mechanic (VM AFV) with effect from 3rd March 1997 with all consequential benefits.

2. The brief facts of the case are that the applicants were appointed as Vehicle Mechanic by the respondents on various dates



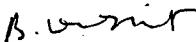
between the period from 1984 to 1988. According to the applicants, the next promotional post for the post of Vehicle Mechanic is, the post of Vehicle Mechanic (AFV). It is alleged by the applicants that the respondents made recruitment to the post of V.M. (AFV) in violation of the recruitment rules. As per the recruitment rules, the post of VM (AFV) is required to be filled up by promotion, failing which by transfer, failing both by transfer on deputation/ re-employment and failing all by direct recruitment. The Vehicle Mechanic Highly Skilled Grade-II with three years regular service in the grade on the basis of qualifying departmental test held for the purpose are eligible for promotion. The learned counsel for the applicant submits that the applicant, who are eligible for promotion have not been considered as per the recruitment rules and the respondents, in violation of the recruitment rules have filled up the post by direct recruitment.

3. As per the records made available before us, we find that the persons, who had been selected for the post of VM (AFV) were appointed to the post vide order dated 2.6.1997. These persons have been working as such for the last four years. In case, the selection of these persons is set aside, they will be adversely affected.



4. It is well settled law that the persons who are adversely affected should be impleaded as party respondents and given an opportunity of hearing. Any order passed against such persons without impleading them as necessary party will not be legally sustainable. Thus, in the absence of non-impleadment of persons, who would be adversely affected, the OA fails, and is accordingly dismissed. No costs.


(M.P. SINGH)
MEMBER (A)


(BIRENDRA DIKSHIT)
VICE CHAIRMAN

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