

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of Decision : 25.04.03

O.A. No. 170/2003.

1. Kundan Lal Meena son of Late Shri Lallu Ram Meena, aged about 35 years, resident of 26, Behind Geejgarn House, 22 Godown, Jaipur.
2. Pradeep Kumar Gang son of Shri Shikhar Chand Gang, aged about 32 years, resident of Namak Katra, C/o Sh. Ramsingh Verma, Near Bhairav Temple, Bharatpur.
3. Durga Kshetri son of Shri Narbanadur Kshetri, aged about 30 years, resident of D-241, Prem Nagar, Jhotwara, Jaipur.
4. Babu Lal Prajapat B/o Shri Manraj Prajapat, aged about 31 years, resident of Village & Post Khairoda, Tensil Vallabhnagar, Distt. Udaipur.

... APPLICANTS.

v e r s u s

1. The Union of India through the Director General, Employees State Insurance Corporation, Kotla Road, New Delhi.
2. The Employees State Insurance Corporation, Regional Office, Panchdeep Bhawan, Bhawani Singh Marg, Jaipur through its Regional Director.

... RESPONDENTS.

Mr. Anupam Agarwal, ~~Power~~ counsel for
Mr. Manish Bhandari counsel for the applicants.

CORAM

Hon'ble Mr. Justice G. L. Gupta, Vice Chairman.
Hon'ble Mr. A. P. Nagrath, Administrative Member.

: O R D E R :

(Per Hon'ble Mr. Justice G.L. Gupta)

Applicant Kundan Lal Meena was appointed as LDC on ad-hoc basis vide order dt. 22.2.1995 for a period of 90 days along with three other persons. It is averred that applicants No.2, 3 and 4 were also appointed on ad-hoc basis, however, a copy of their appointment order has not been placed on record. Their services were terminated in the year 2001. Kundan Lal challenged the termination order by



filing OA 435/99. The said OA was dismissed vide order dt. 5.9.2001. It appears that 5 more persons had also been appointed as LDCs on ad-hoc basis by separate order/s which has/have not been filed along with OA. Those five persons viz. Bijendra Kumar, Krishna Pratap Singh, Rajesh Lakera, Krishna Gopal Ocha and Ramesh Lal are continuing as LDCs on ad-hoc basis. The competent authority has issued memorandum dt. 9.4.2003 calling upon those five ad-hoc L.D.Cs to appear for the test as their regularisation was in contemplation.

2. The case for the applicants is that they should also have been called upon to appear in the test as they are similarly situated persons.

3. The contention of Mr. Agarwal is that the applicants are similarly situated as Bijendra Kumar and 4 others who have been called for the written test. In this connection, he points out that they are continuing as LDCs on ad-hoc basis under the order of the Court and therefore their position is the same as that of the applicants.

4. We have gone through the material on record. It is seen that in the Memorandum dt. 9.4.2003 it is stated that the five persons working as Clerks on ad-hoc basis are to appear in the written test for their regularisation. Admittedly, the applicants were not working as LDCs on 9.4.2003 and therefore it cannot be said that they are similarly situated persons as the five persons named in the Memorandum dt. 9.4.2003.

5. It is significant to point out that even according to the averments made in the OA, the services of applicant Kundan Lal had been terminated in the year 2001 and he had filed OA No.435/99 challenging termination order. The said OA was dismissed vide order dt. 5.9.2001 and that order has attained finality. Therefore, the applicants cannot claim to appear in the test which is being held for the working LDCs.

6. As to the contention that the five persons named in the Memorandum dt. 9.4.2003 are working on the basis of the interim order



passed by the Court, it may be stated that it is not correct. Three persons out of five persons named in the memorandum dt. 9.4.2003 one more person had filed OA No.418/98 which was disposed on 4.9.2001. The order does not indicate that the applicants of that case are continuing as LDCs on the basis of the interim order passed by the Court. What was stated in the order dt. 4.9.2001 was that the Respondents counsel had admitted before the Court that the services of the applicants therein was not being terminated and the applicants were satisfied. The OA was disposed of as having become infructuous. It is evident from the order that it was not directed by the Court that the service of the applicants therein would not be terminated. It is therefore, incorrect to contend that 3 out of 5 candidates mentioned in the Memorandum dt. 9.4.2003 are continuing as LDCs on the basis of the order passed by the Court. It may be stated that ~~five~~ ^{two} other persons Krishna Gopal and Krishna Pratap Singh who have been called for the written test vide Memo dt. 9.4.2003 were not the applicants in OA 418/98.

7. In our opinion, no case of discrimination is made out. As a matter of fact, the applicants cannot be said to be similarly situated persons mentioned in the Memorandum dt. 9.4.2003.

8. Consequently, the application is dismissed in limine.



(A.P.NAGRATH)
MEMBER(A)



(G.L.GUPTA)
VICE-CHAIRMAN

B.