

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 439 of 2003

Jabalpur, this the 15<sup>th</sup> day of September, 2004

Hon'ble Shri M.P. Singh, Vice Chairman  
Hon'ble Shri Madan Mohan, Judicial Member

Kapil Kumar Vishwakarma, S/o. Shri  
Charanlal Vishwakarma, aged about 30  
years, working as Driver at Jawahar  
Navodaya Vidyalaya, Shamshabad, Distt.  
Vidisha (MP). ... Applicant

(By Advocate - Shri Lalid Joglekar on behalf of Shri  
Prashant Singh)

V e r s u s

1. The Union of India, through the  
Secretary, Ministry of Human  
Resources Department of Education,  
New Delhi.
2. The Director, Navodaya Vidyalaya  
Samiti, A-39, Kailash Colony,  
New Delhi.
3. The Deputy Director, Navodaya Vidyalaya  
Samiti, Maharana Pratap Nagar, Zone-II,  
Bhopal (MP).
4. The Principal, Jawahar Navodaya Vidyalaya,  
Shamshabad, Distt. Vidisha (MP). ... Respondents

(By Advocate - Shri O.P. Namdeo)

ORDER

By Madan Mohan, Judicial Member -

By filing this Original Application the applicant has  
claimed the following main reliefs :

"(i) to direct the respondents to appoint the applicant  
as Driver on regular basis in pursuant to the selection  
made by the Sub Appointment Committee dtd. 27.6.02  
(Annex. A-10),

(ii) to direct the respondents to reckon the sincerity  
of the applicant in the cadre of Driver w.e.f. 27.6.02  
(Annex. A-10),

(iii) to direct the respondents to pay all the monetary  
benefits to the applicant attached to the post of  
Driver w.e.f. 26.6.2002 (Annex. A-10),

(iv) to direct the respondents to produce the records  
pertaining to the entire selection process and minutes  
of the meeting of Sub Appointment Committee for the  
kind perusal of the Hon'ble Tribunal."

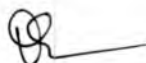


2. The brief facts of the case are that the applicant was initially inducted in-to the services of the respondents as a Driver in the year 1996 on part time basis. On 28.10.1998 a certificate was issued by the respondent No. 4 certifying the fact that the applicant is engaged in the service of respondents w.e.f. 24.11.1996 on part time basis. On 22.6.2002 the respondent No. 4 had issued call letter for interview of the applicant for the purposes of his regular appointment as Driver on the pay scale of Rs. 3050-4590/-. on 27.6.2002, the applicant had appeared in the interview and he had scored highest marks in the interview. The sub appointment committee on its meeting dated 27.6.2002 had prepared a panel of candidates in which the name of the applicant has been placed at serial No. 1. Prior to the issuance of the interview call letter the notification of availability of the post of Driver was issued to the employment officer. But till now the applicant has not been issued the appointment letter for the alleged post. Hence, this OA.

3. Heard the learned counsel for the parties and perused the records carefully.

4. The learned counsel for the applicant argued that <sup>in</sup> the meeting held on 27.6.2002 of the Sub Appointment Committee of the select panel, the name of the applicant has been placed at serial No. 1. The meeting of the Sub Appointment Committee was conducted in accordance with the rules. The applicant being placed at serial No. 1 in the panel and also working as Driver since 24.11.1996 was only the suitable candidate for the alleged post, but no appointment letter is issued so far in compliance with the aforesaid decision of the Sub Appointment Committee which is apparently illegal.

5. In reply it is argued on behalf of the respondents



that the applicant was not a regular incumbent to the post of Driver in J.N.V. Shamshabad, Vidisha. He was engaged as a stop gap arrangement on part time basis from time to time by the Vidyalaya as and when the services were required. Thereafter when on change in the policy regarding procurement of new vehicles which was completely banned and number of vehicles were condemned, the drivers who were appointed on regular basis become surplus and were to be adjusted, as such the drivers who were working on the contract basis or part time basis, their services were dispensed with. There is no illegality or infirmity in the impugned action taken by the respondents. The applicant was appointed as Driver on contract basis as per the policy of the Navodaya Vidyalaya samiti on the basis of the interview held on 27.6.2002 and the said contract would over by 30.4.2004. Our attention is drawn towards Annexure R-1 in which it is mentioned that "However, due to latest revised policy of NVS, fresh recruitment of Drivers is banned and the adjustment of existing Drivers are under execution since a number of Vehicles are condemned/off the road. Therefore, appointments cannot be considered at this stage. After adjusting the Drivers of the Vidyalayas, if the vacancy exists, approval will be intimated."

6. After hearing the learned counsel for the parties and on careful perusal of the records, we find that the applicant was declared successful by the Sub Appointment Committee in the meeting held on 27.6.2002 and he was placed at Serial No. 1 in the panel. But vide Annexure R-1 filed with the return of the respondents we find that in this letter it is mentioned that due to latest revised policy of NVS, fresh recruitment of Drivers is banned and the adjustment of existing Drivers are under execution since a number of Vehicles are condemned/off the road. Therefore,



appointments cannot be considered at this stage. After adjusting the Drivers of the Vidyalayas, if the vacancy exists, approval will be intimated. Once a candidate is selected and his name appears in the panel, <sup>then</sup> then it is not his right to get the appointment. We find that in this case due to the latest revised policy of NVS as mentioned in Annexure R-1 dated 8/13.10.2003, the case of the applicant was not considered by the respondents. The reasons mentioned in the Annexure R-1 seems to be proper as due to change in policy the procurement of new vehicles were completely banned and <sup>number of vehicles were condemned,</sup> the drivers who were appointed on regular basis became surplus and were to be adjusted, hence such drivers who were working on contract basis or part time basis, their services were dispensed with. This order seems to be legal and justified. Hence, we do not find any irregularity or illegality in the action of the respondents.

7. In this view of the matter, we are of the considered opinion that the applicant has failed to prove his case and this Original Application is liable to be dismissed as having no merits. Accordingly, the Original Application is dismissed. No costs. However, the respondents are <sup>at liberty</sup> directed to consider the case of the applicant on priority basis as and when the vacancy exists for the post of Driver, over and above the fresh candidates.

(Madan Mohan)  
Judicial Member

(M.P. Singh)  
Vice Chairman

" SA "

पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....

परिचयि अवे शिरा -

- (1) सचिव, न्याय व्यवस्थापक कार्यालय, जबलपुर
- (2) सचिव, न्याय व्यवस्थापक कार्यालय, जबलपुर
- (3) सचिव, न्याय व्यवस्थापक कार्यालय, जबलपुर
- (4) सचिव, न्याय व्यवस्थापक कार्यालय, जबलपुर

Shri Prashant Singh  
Shri Om Anand HCLB

श्री रजिस्ट्रार

Issued  
On 20.9.04