

Central Administrative Tribunal
Principal Bench
New Delhi

O.A.No.3192/2014

Order Reserved on: 06.01.2016
Order pronounced on 11.01.2016

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Shri Shekhar Agarwal, Member (A)

Sohan Pal
S/o Late Shri Khachehu
Age 57 years,
Pump Operator
R/o H.No.122 Village Jaitpur
Badarpur
New Delhi – 110 044. ... Applicant

(By Advocate: Shri Rishi Jain)

Versus

1. Govt. of NCT of Delhi
Through its Development Commissioner-cum
Flood Secretary,
Department of Irrigation and Flood Control
5/9, Under Hill Road, Rajpura Road
Delhi.
2. The Chief Engineer Zone-I
Irrigation and Flood Control Department (I&F)
Govt. of NCT of Delhi
IVth Floor, ISBT, Kashmree Gate
New Delhi.
3. Union of India through its Secretary
Ministry of Home Affairs
Government of India

North Block
New Delhi.

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Respondents

(By Advocate: Shri Anmol Pandita for Shri Vijay Pandita)

ORDER

By V. Ajay Kumar, Member (J):

The applicant, who is working as Pump Operator on muster roll under the 2nd Respondent-Irrigation and Flood Control Department (I&F) of the Govt. of NCTD, filed the OA seeking a direction to the respondents to regularize his services with effect from 01.06.1989 with all consequential benefits.

2. The applicant had joined as Pump Operator, on muster roll basis, on 16.11.1978. In pursuance of certain orders passed by the Hon'ble Apex Court, the respondents vide Annexure A3 framed a Scheme for regularization of services of its Daily Wage Staff. In pursuance of the said Scheme, the respondents regularised number of persons, including seniors and juniors to the applicant, who passed the suitability tests. But the services of the applicant could not be regularized as he failed in the suitability tests conducted by the respondents on two occasions.

3. Heard both the learned counsel appearing on behalf of their respective parties, and perused the pleadings on record.

4. The cause of action for the OA arose when the respondents framed the Scheme for regularization in the year 1980 and when the applicant's case was not considered on the ground that he failed in the suitability test on two occasions, last test being in 1997. Hence, the OA is liable to be dismissed being barred by limitation, under Section 21 of the Administrative Tribunals Act, 1985.

5. Further, the learned counsel for the applicant while not disputing the fact that the applicant failed in the suitability test on two occasions, which were conducted for regularization of his services, however, submits that in view of the long service of the applicant, the respondents may be directed to conduct a suitability test once again to the applicant. He further submits that since the applicant has been continuously working for more than three decades, his services may be regularized by exempting him from the said test.

6. It is not disputed that the respondents regularized the services of any person who has not passed the suitability test. It is also not disputed that the juniors who were regularized have cleared the suitability test whereas the applicant failed on two occasions. Since the respondents have not violated any of the provisions of law or of the conditions of the Scheme for

regularization, and that they have considered the cases of all the muster roll employees, including the applicant, equally without any discrimination, their action cannot be found fault with.

7. In the circumstances we do not see any merit in the OA, and accordingly the same is dismissed both on merits and on limitation. No order as to costs.

(Shekhar Agarwal)
Member (A)

(V. Ajay Kumar)
Member (J)

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