

**Central Administrative Tribunal  
Principal Bench, New Delhi**

OA No.4560/2013

New Delhi, this the 14th day of September, 2016

**Hon'ble Mr. P.K. Basu, Member (A)  
Hon'ble Dr. Brahm Avtar Agrawal, Member (J)**

1. Sh. G.S. Rathee S/o Sh. S.K. Rathee  
S/o Sh. S.K. Rathee  
Airworthiness Officer (Consultant)  
C.E.O. (R.K.Puram), Delhi
2. Subash Singh  
S/o Sh. Raj Kumar Singh  
Airworthiness Officer (Consultant)  
C.E.O. (R.K.Puram), Delhi
3. Neha Panwar  
D/o Shri Brijbir Singh  
Airworthiness Officer (Consultant)  
C.E.O. (R.K.Puram), Delhi
4. G.Suresh  
S/o Sh. Gunasekaran M.K.  
Airworthiness Officer (Consultant)  
C.E.O. (R.K.Puram), Delhi
5. B.Dinesh  
S/o Sh. B. Ramesh  
Airworthiness Officer (Consultant)  
C.E.O. (R.K.Puram), Delhi
6. Sbhyata Gupta  
D/o Sh. Satish Chandra Gupta  
Airworthiness Officer (Consultant)  
DAW Delhi Region
7. Rahul Srivastava  
S/o Sh. S.P. Srivastava  
Airworthiness Officer (Consultant)  
DAW Delhi Region

8. Shri Raj Kumar Meena  
S/o Sh. B.L. Meena  
Airworthiness Officer (Consultant)  
DAW Delhi Region
9. Pilli Sathish Kumar  
S/o Sh.P. Appajah  
Airworthiness Officer (Consultant)  
DAW Delhi Region
10. Anurag Chkrawarti  
S/o Sh. Munni Lal  
Airworthiness Officer (Consultant)  
DAW Delhi Region
11. K.Swathi  
D/o Sh. K. Prabhu,  
Airworthiness Officer (Consultant)  
DAW Hyderabad
12. Kavita Dubey  
D/o Sh Govind Pandey  
Airworthiness Officer (Consultant)  
DAW Hyderabad
13. K.P.Srinivash Prasana  
S/o Sh.K. Narasimhchari  
Airworthiness Officer (Consultant)  
DAW Hyderabad
14. Debsis Gayen  
S/o Sh. Santosh Gayen,  
Airworthiness Officer (Consultant)  
DAW Kolkata Region
15. K.Raju  
S/o Shri Bikya  
Airworthiness Officer (Consultant)  
DAW Kolkata Region
16. Arijit Ray,  
S/o Sh. A.K. Roy  
Airworthiness Officer (Consultant)  
DAW Kolkata Region

17. Pathik Mahesh R.Vaghela  
S/o Sh. Maheshbahi Vaghela  
Airworthiness Officer (Consultant)  
DAG Bhopal
18. Kiran B. Patil  
S/o Sh. Balaran Patil  
Airworthiness Officer (Consultant)  
DDG Mumbai Region
19. Prasana C. Nikhade  
S/o Charandas S. Nikhade  
Airworthiness Officer (Consultant)  
DDG Mumbai Region
20. Hemant Sapkale  
S/o Sh. Gokul Sapkale,  
Airworthiness Officer (Consultant)  
DDG Mumbai Region
21. Ram Gopal  
S/o Sh. Ram Chandra  
Airworthiness Officer (Consultant)  
DDG Mumbai Region
22. Vijay Mangla  
S/o Sh. Desh Raj Mangla  
Airworthiness Officer (Consultant)  
DGGA, Head Quarters, Delhi.
23. K.Raghavaran  
S/o Sh. AKannan  
Airworthiness Officer (Consultant)  
DAW Delhi Region..... Applicants

(By Advocate : Mr. Anmoal Pandita, proxy for Mr. Ajay Avnish)

### **Versus**

1. Union of India  
Through Secretary  
Ministry of Civil Aviation  
Rajiv Gandhi Bhawan  
Safdarjung Airport  
New Delhi-110003

2. D.G.C.A.  
Through Secretary  
Ministry of Civil Aviation  
Technical Centre,  
Sri Arbindo Marg,  
Opp. Safdarjung Airport  
New Delhi-110003
3. Secretary  
Through Secretary  
Ministry of Finance  
North Block, New Delhi-110001. .... Respondents

(By Advocate: Mr. Amit Sinha, proxy for Mr. R.N. Singh)

### **ORDER (ORAL)**

#### **Hon'ble Mr. P.K. Basu, Member (A)**

The applicants were appointed as Airworthiness Group A officers (Consultant) in Directorate General of Aviation on short term contract basis vide advertisement dated 22.06.2009 through a written test conducted by UPSC initially for a period of one year starting 2010. They got extension from time to time and finally the respondents extended the contract of the Consultants, who were working against the vacant posts of Airworthiness Officers, till 30.09.2013 and the proposal for extension was taken up with the Ministry of Civil Aviation. The Competent Authority vide officer order dated 12.12.2013 agreed to extend the term of their short term contract as Consultants only for a further period from 01.10.2013 to 31.12.2013 on the existing terms and

conditions. By this order it was also decided that on completion of their extended tenure from 1.10.2013 to 31.12.2013(An) all the Consultants will stand relieved of their duties in their respective offices w.e.f. 31.12.2013 (An). This order specifically stated that no separate orders regarding their relieving from the concerned Directorate/offices are required to be issued in this regard and remuneration as were being drawn by Consultants earlier will be paid on furnishing a certificate by the Divisional Heads, where these Consultants were working, certifying in respect of each Consultants that he/she has actually attended the office and discharged their assigned duties with their full satisfaction beyond 30.09.2013.

2. This application has been filed challenging termination of their short term contract with the following prayers:-

- (a) Directing the respondents to place the records pertaining to the present OA before their Lordships for the proper adjudication in the matter, in the interest of justice.
- (b) Declaring the actions of the respondents not to considering the applicants for appointment against the vacancies treating them as a special class is as illegal, unjust, biased, perverse, malafide, unconstitutional, against the principles of natural justice violation of articles 14, 16 & 21 of the Constitution of India, in violation of the mandatory provisions of law and discriminatory also; and thereafter.
- (c) Directing the respondent to consider the case of the applicants for appointment admittedly who had been selected after following the due process of law and are still continue, continuing, treating them as special class in terms of the law laid down by the Hon'ble High Court of

Delhi in WP (C) No. 14160/2009 decided on 09.01.2013 title as **S.K.Chaudhary vs Govt.of NCTD Delhi & Ors.** With all other consequential benefits.

(d) Allowing the OA of the applicants with all other consequential benefits and cost.

3. Proxy counsel Mr.Amit Sinha for Mr.R.N.Singh on behalf of the respondents has appeared and sought adjournment. Mr.Anmol Pandita, also proxy for Mr. Ajay Avnish on behalf of the applicant has appeared and stated that he is not ready to argue the matter. Since the matter pertains to the year 2013 we cannot postpone the matter any further and this order is being passed under the provisions of the Rule 15 of the Central Administrative Tribunal (Procedural) Rules Act. 1987.

4. Learned counsel for the respondents pointed out that the Hon'ble High Court in a similar issue has remitted the matter to this Tribunal, which was heard and decided by this Tribunal as OA No.2450 along with OA No. 2440 filed by one of the applicants seeking similar relief. The operative part of the judgment dated 17.09.2013 reads as under:-

“..... The information furnished by UPSC reveals that no candidate having degree in Physics or Mathematics has been finally selected. Thus, the presumption that Physics and Mathematics graduate with work experience of two years will be able to compete with candidates possessing engineering degrees has not turned out to be correct. Even then the examination process cannot be faulted on this

ground. The job of Airworthiness Officer as mentioned above does require knowledge of Mechanical/ Electrical/ Electronic Engineering steps and if Physics and Mathematics graduates have not been able to acquire this knowledge despite having two year work experience, the respondents cannot be faulted for not selecting them. Therefore, it can be inferred that the respondents cannot be faulted for prescribing educational qualification which are not in accordance with the job of Airworthiness Officer. Hence, this ground taken by the applicants is also not tenable.

Another ground taken by the applicants is that UPSC changed the Rules at the last moment by issuing a Corrigendum dated 14.07.2012 very close to the date of the examination. We have considered this issue and Corrigendum issued on 14.07.2012 has been extracted in the earlier part of this judgment. We find that the only change in the syllabus was that "Strength of material and machine design" published in earlier Notification was changed to read as "Strength of materials and engineering materials". In our opinion, this change is quite insignificant and does not amount to altering the Rules of the game. Moreover, it was made almost fortnight before the examination and duly notified in the newspaper. Whatever hardship it caused was to all the candidates who took this examination. In a competitive exam, it cannot be said that it favoured any candidate in any manner and, therefore, in our opinion does not vitiate the exam.

On the basis of above analysis, we come to the conclusion that none of the grounds taken by the applicants for challenging this examination is tenable. Accordingly, this OA is dismissed being devoid of merit. No costs."

5. It is, further, argued that since there were no orders from the Hon'ble High Court or any other Judicial Forum to restrict or restrain the answering respondents from taking executive decision suitable orders were passed and relying on the office order dated 12.12.2013. It is submitted that, in fact, it is, the applicants who have been delaying the process of selection of

the regular candidates by filing some or other application even though they are no longer working with the respondents. As regards the judgment of Hon'ble High Court in the matter of **S.K. Chaudhary and Ors**, it is stated by the respondents that facts circumstances are different as compared to the present case as in S.K.Chaudhary the applicants had been treated as a special class. The applicants herein had enough opportunity and knowledge, experience to qualify the exam. But instead of that they want regularization without having to face any examination. Hence, similar relief cannot be sought on the basis of being treated as a 'special class'. The respondents also rely on the judgment of this Tribunal in the matter of **Arun Kumar & Ors Vs. U.O.I and Ors** in OA No. 1655/2014 decided by this Tribunal on 15.02.2016 in which OA in a similar matter of regularization, the Tribunal refused to grant relief.

6. In view of the above, it is clear that facts of the case in this OA are not similar to the **S.K. Chaudhary** (Supra) case. In this case clearly the applicants had been appointed on short term contract basis, which has been extended from time to time. When examination for regular appointments were made in which applicants could also have appeared, their services were discontinued as regular appointees were available. This is fully

consistent with ratio laid down by the Hon'ble Supreme Court in **Secretary, State of Karnataka Ors vs. Umadevi & Ors**, 2006(4) SCC 1. We, thus, do not find any irregularity or illegality in the action taken by the respondents. Therefore, the OA is dismissed. No costs.

**(Dr. Brahm Avtar Agrawal)**  
**Member (J)**

**(P.K. Basu)**  
**Member A)**

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