

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH AT BANGALORE

CONTEMPT PETITION NO. 170/00009/2016

IN

ORIGINAL APPLICATION NO. 170/00826/2001

DATED THIS THE 31ST DAY OF OCTOBER, 2017

HON'BLE DR K. B SURESH....MEMBER (J)

G. Raghava
Aged about 46 years,
S/o Shri P.R. Govindan Nair,
Working as Staff Car Driver,
O/o Central Poultry Training
Institute, Hasseraghatta,
Bengaluru – 560 088.
Residing at Quarters Poultry Complex,
Hasseraghatta, Bengaluru – 560 088

.... Petitioner

(By Advocate Shri Adinath Narde & Revathy Associates)

Vs.

1. P. S Mahesh,
The Director,
Central Poultry Training
Institute, Hesaraghatta,
Bengaluru – 560 088.

2. Ashok Kumar Anguraj
Union of India,
Represented by its Secretary,
Ministry of Agriculture,
Department of Animal
Husbandry and Dairying.

...Respondents

(By Shri S. Prakash Shetty, Senior Panel Counsel)

ORDER (ORAL)HON'BLE DR K.B.SURESH, MEMBER (J)

Heard. Our order had two limbs to it. One is implementation of scheme No. 22036/1/92-Estt.(D) issued by Ministry of Personnel, Public Grievances and Pensions dated 30.11.1993. The scheme in the operative portion reads as follows:

"SCHEME 2.1 *The posts of Staff Car Drivers in the existing scale of Rs.950-1500 will be placed in the following three scales i.e., Rs.950-1500, Rs.1200-1800, Rs. 1320-2040 in the ratio of 55:25:20 (for example, if there are five posts of Staff Car Drivers 55% of 5 posts i.e. 3 will be in the scale of Rs.950-1500, 25% of 5 i.e. 1 will be in the scale of Rs. Rs.1200-1800 and 20% of 5 i.e. 1 will be in the scale of Rs. 1320-2040).*

2.1.1 *The nomenclature of the posts in the various scales will be as under:-*

<u>Sl.No.</u>	<u>Scale</u>	<u>Nomenclature</u>
1.	Rs.950-1500	Staff Car Driver Ordinary Grade
2.	Rs.1200-1800	Staff Car Driver Grade II
3.	Rs. 1320-2040	Staff Car Driver Grade I

2.1.2 *If any fresh vacancies are created as additions to the existing strength of Staff Car Drivers, they will be created only in the scale of Rs.950-1500.*

2.2 *Where the Cadre is too small for the purpose of creation of higher grades, the possibility of combining of different cadres and operating it on a nodal basis may be considered by the concerned Ministries/Departments. In such cases, movement of personnel may not be required and the seniormost driver(s) in the combined seniority/eligibility list who are assessed fit for promotion may be promoted in situ.*

2.3 *The minimum eligibility criteria for appointment to the posts in the above scale will be as under: -*

<u>Grade</u>	<u>Eligibility Period</u>
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- | | | |
|--|--|---|
| | <i>Ordinary Grade
(Rs.950-1500)</i> | <i>Basic Grade</i> |
| | <i>Grade II of Staff
Car Driver
(Rs.1200-1800)</i> | <i>9 years of regular
service in the Ordinary
Grade</i> |
| | <i>Grade I of Staff
Car Driver
(Rs. 1320-2040)</i> | <i>6 years of regular
service in Grade II of
Staff Car Drivers.</i> |
- 2.4 *The method of appointments to the posts in Grade II and Grade I Staff Car Driver will be by promotion on Non-Selection (Seniority-cum-Fitness) basis and will be further subject to passing of a Trade Test of appropriate standard, contained in the Annexure I to this OM.*
- 2.5 *For the purpose of conducting Trade Test as required at these levels, a scheme indicating the syllabus has been enclosed as Annexure I to this OM.*
- 2.6 *All the above appointments will be subject to the application of reservation orders as applicable to these grades.*
- 2.7 *As the powers to frame Recruitment Rules for Group C & D posts have already been delegated to Ministries/Deptts, they may frame the rules in accordance with the guidelines, by indicating the eligibility criteria laid down in this OM.*
- 2.8 *If any department had promoted any Staff Car Driver in terms of the Ministry of Finance (Department of Expenditure) OM No. 10(1)-E.III/88 dated 13.9.91 to the next higher scale on in situ basis such officers may be allowed to come over to this scheme, as these orders will no longer be applicable to the case of Staff Car Drivers.*
- 2.9 *These orders come into force w.e.f.1.8.93.*

INITIAL

APPOINTMENT 3. *While making initial appointment to the above newly created scales, each Ministry/Department will set the list of Staff Car Drivers, who have rendered not less than 15 years of service, may be considered for appointment to posts in Grade I direct to the extent of availability of vacancies in that grade subject to being found fit by DPC on the basis of seniority-cum-fitness and passing the Trade Test. In the same manner Staff Car Drivers, who have rendered not less than 9 years service (including*

those who could not be accommodated in Grade I in spite of putting in 15 years of service, for want of vacancies), may be considered for appointment to Grade II by following the same eligibility and other criteria prescribed for appointment to these posts.

EXCEPTION 4. *These orders would not apply in the Ministries/ Departments where drivers already have more than one scale of pay.*

5. *Ministry of Finance etc. are requested to take further action to implement the scheme urgently.*

(Hindi version will follow)”

2. Therefore, going by the scheme and the proportion which it envisages and the fact that the respondents have now produced the seniority list of four people in which there are three seniors to the petitioner.

SENIORITY LIST OF DRIVERS IN R/O CPDO&TI, HESSARGHATTA, BANGALORE – 560 088

SL N O	NAME OF THE OFFICIAL	DATE OF BIRTH	DATE OF ENTRY INTO GOVT. SERVICE	DATE OF PROMOTION TO THE PROST OF DRIVER	WHETHER AVAILED THE BENEFIT OF ACP /MACP	DATE OF RETIREMENT	REMARKS
1.	Sh. Ramu	28-06-1944	9/12/1972	Driver since 9/12/1972	Yes Availed the Benefit	30-06-2004	
2.	Sh. G. Narasimhaiah	5/5/1959	12/4/1982	1/7/1987	Yes Availed the Benefit	31/05/2019	Appointed as Poultry Attendant w.e.f. 12/04/1982
4.	Sh.G.Raghava	1/7/1959	27/01/1984	24/02/1988	NOT Availed the Benefit	30/06/2019	Appointed as Mess Attendant w.e.f. 27/01/1984
3.	Sh.P. Udayasuryan	15/05/1959	20/12/1989	Driver since 20/12/1989	Yes Availed the Benefit	31/12/2019	

3. Therefore, going by the proportion in this scheme, as there are two seniors to the petitioner, petitioner cannot be possibly granted more than Grade-II and therefore it would appear that the fundamental crux of the order

is satisfied. The learned counsel would like us to look into the matter afresh and would say that petitioner is eligible or not as vacancy based right but on the basis of service even though granted notionally. But this we find is singularly absent in the order concerned which we now have to implement. Therefore with liberty to file another OA to challenge the new grounds raised by the petitioner, this CP is now closed.

4. At this point of time, the original applicant is present in Court as introduced by the applicant's counsel. He would say that the seniority list produced by the respondents is not correct. In fact, he is the most senior and the other two people have already retired. The original applicant clarifies that the two whom he mentioned is in a subordinate office. But then in a contempt application it is not proper for the Court to go into all these question of intricate facts. We will leave it to the discretion of the next Bench which hears the matter in another OA to decide all these facts.

5. This Contempt Petition is now closed with liberty as aforesaid. Notices are discharged.

(Dr.K.B.SURESH)
MEMBER (J)

Annexures referred to by the petitioner in CP No. 170/00009/2016

Annexure-CP1: Copy of the Office Order No.1-3(10)/89-CPTI dated 07.11.1989

Annexure-CP2: Copy of the Office Memorandum No. 22036/1/92-Estt.(D) dated 30.11.1993

Annexure-CP3: Copy of the Order dated 25.10.2002 passed in OA No. 826/2001

Annexure-CP4: Copy of the Order dated 04.10.2010 passed in WP No. 25604 of 2003 (S-CAT)

Annexure-CP5: Copy of the Order sheet in WP No. 25604/2003

Annexure-CP6: Copy of the representation of the applicant dated 25.03.2015

Annexures referred in MA No.170/00032/2016 for condonation of delay

Annexure-A7: Copy of case status of Writ Petition No.25604/2003 in the Hon'ble High Court of Karnataka

Annexures with reply statement

Annexure-CR1: Copy of letter No.WP 25604/2003/CPDO&TI/2015-16/2660 dated 15.03.2016 addressed to the Under Secretary, Ministry of Agriculture, New Delhi.

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