

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 1068/2015
MA 979/2015
MA 1243/2015
MA 3080/2015
MA 3961/2015

Reserved on 25.04.2019
Pronounced on: 02.05.2019

Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N.Terdal, Member (J)

1. Hemant Kumar Sharma
S/o Late Shri D.D.Sharma
Aged about 48 years
R/o A-180, Main Shalimar Garden,
Sahibabad, Ghaziabad
Working as Pump Driver (Group 'C')
2. Subhash Chandra
S/o Sh. Vishnu Lal Yadav,
Aged about 50 years
R/o 47, Suraj Apartment,
Pul Prahaladpur, New Delhi-110044
Working as Asstt. Pump Driver (Group 'C')
3. Sat Prakash
S/o Sh. Mam Chand
Aged about 52 years
R/o Gali No.2, Krishna Nagar,
Sri Nagar, Modi Nagar, Ghaziabad,
Working as Fitter Second Class (Group 'C')
4. Om Prakash,
S/o Sh. Mam Chand
Aged about 55 years,
R/o H.No.3, Gali No. 1, A Block,
Baba Colony, Burari, Delhi
Working as Foreman (Group 'C')
5. Sanjay Kumar Mittal
S/o Shri N.K.Mittal,
Aged about 48 years
R/o A-1/62-B, Janta Flat,
Paschim Vihar, New Delhi-110063
Working as Fitter Second Class
(Group 'C').

6. Nooral Islam
S/o Shri Noor Mohd.
Aged about 53 years
R/o B-182, Old Seema Puri,
Delhi-110095
Working as Fitter Second Class
(Group 'C').
7. Dabbal Singh,
S/o Sh. Sain Singh
Aged about 55 years
R/o 983/19, L-1, Sangam Vihar,
New Delhi-110062
Working as Shift Incharge (Group 'C')
8. Ravindra Kumar Khokhar
S/o Sh. Braham Singh
Aged about 57 years
R/o Flat No. 102, Petronas, BT-7,
Omaxe Height, Greater Faridabad,
Haryana Working as Shift Incharge
(Group. 'C').
9. Manvir Singh
S/o Late Sh. Keval Singh
Aged about 50 years
R/o UGF-3, Vardhman Heritage
Shalimar Garden Main Sahibabad,
Ghaziabad, U.P. Working as Shift
Incharge (Group 'C').
10. Anil Kumar
S/o Sh. Raghunath Sahai
Aged about 49 years
R/o IX-9/3582, Jain Mohalla,
Dharampura, Gandhi Nagar,
Delhi-110031
Working as J.E. (Group 'C').
11. Harendra Singh
S/o Sh. Dharamvir Singh,
Aged about 56 years
R/o 1/45, Gali No. 4, Vishwas Nagar,
Shahdara, Delhi-110032
Working as Pump Driver (Group 'C')
12. Suresh Chand Sarang
S/o Late Sh. Hoti Lal
Aged about 56 years
R/o 141/2, Arya Nagar, Surajkund Road,
Meerut, Uttar Pradesh
Working as Shift Incharge
(Group 'C')

13. Hari Om
S/o Sh. Ramesh Chand
Aged about 55 years
R/o H.No.90, B-4 Block,
First Floor, Yamuna Vihar,
Delhi-110053
Working as Foreman (Group 'C')
14. Narendra Singh
S/o Sh. Om Prakash
Aged about 53 years
R/o 54, Type 3, Varun Niketan,
Delhi Jal Board Staff Quarter
Pitam Pura, Delhi
Working as Shift Incharge (Group 'C')
15. Deepak Kumar
S/o Sh. Shital Prasad
Aged about 49 years
R/o 27/94, 9-A, Jwala Nagar,
Shahdara, Delhi-110032
Working as Asstt. Pump Driver
(Group 'C')
16. Narendra Singh
S/o Sh. Jhamman Lal
Aged about 52 years
R/o-514, LIG Flats,
East of Loni Road, Delhi-110093
Working as Pump Mechanic
(Group 'C')
17. Deepak Kumar
S/o Shital Prasad
Aged about 49 years
R/o 27/94, 9-A, Jwala Nagar,
Shahdara, Delhi-110032
Working as Asstt. Pump Operator
(Group 'C')
18. Rajendra Kumar Gautam
S/o Late Sh. Jangjeet,
Aged about 52 years
R/c C-2/4, Budh Vihar, Phase-1,
Delhi-110086
Working as Foreman (Group 'C').
19. Braham Dutt Saroch
S/o Sh. Ravi Dutt Saroch
Aged about 56 years,
R/o E-2/4, Dayal Pur,
Delhi-110094
Working as Shift Incharge
(Group 'C').

20. Naresh Chandra Bhardwaj
S/o Sh. O.P.Bhardwaj,
Aged about 51 years,
R/o 29/17, Gali No. 12,
Vishwas Nagar, Delhi-110032
Working as Foreman (Group 'C') ... Applicants

(By Advocate: Mr. Piyush Sharma)

VERSUS

1. Chief Executive Officer,
Delhi Jal Board,
Varunalaya Phase-II,
Karol Bagh, New Delhi.
2. Delhi Subordinate Services
Selection Board
Through its Chairman
Govt. of NCT of Delhi,
F.C.-18, Institutional Area,
Karkardooma, Delhi-110092.
3. Delhi Subordinate Services
Selection Board
Through its Secretary
Govt. of NCT of Delhi,
F.C.-18, Institutional Area,
Karkardooma, Delhi-110092. . . Respondents

(By Advocate: Mr. Mr.Raj Kumar Bhartiya and Mr. Amit Anand
for Mr.Amit Yadav)

ORDER

Hon'ble Mr. S.N.Terdal, Member (J):

We have heard Mr. Piyush Sharma, counsel for applicanta and Mr.Raj Kumar Bhartiya and Mr. Amit Anand for Mr.Amit Yadav, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. In the OA, the applicants have prayed for the following reliefs:
 - "a) Set aside/quash the letter dated 03.03.2015 issued by the Respondent No.2;

- b) Direct the Respondent No.1 to include the names of the applicants in the letter dated 12.03.2015 and issue necessary consequential directions to the Respondent No. 2 to interview the applicants;
- c) Award the cost of the Original Application to the applicants and/or
- d) Pass such other and further orders this Hon'ble Tribunal may deem fit in the facts and circumstances of the case."

3. The applicants in this case and similarly situated employees have approached this Tribunal and the High Court several times. But, however, for the purpose of disposing of the present OA, the relevant facts are in a narrow compass, as such only the relevant facts are narrated which are as follows:

- (i) That the applicants were working as Pump Drivers, Assistant Pump Drivers, Fitter Second class, Shift Incharge and Foreman with the respondent and in 1991 they had applied for the post of Junior Engineer (Electrical and Mechanical) JE (E&M) in Delhi Jal Board (DJB) against 10 % of vacancies earmarked for departmental candidates. However, as stated above, some Writ Petitions were filed challenging the mode of selection etc. In some of the proceedings, the Tribunal directed the respondents to dispose of the representation of the applicants in those proceedings by reasoned orders. Some similarly situated employees filed OA no. 4277/2011 before this Tribunal and in the said OA this Tribunal passed the following directions:

"It is further stated by respondent No.2 that after advertisement the names of the departmental candidates will be forwarded to scrutiny branch of this office for issuance of roll numbers to them. However, learned counsel for respondent No.1 submits that

requisition has been sent for filling up of 42 posts of Junior Engineer instead of 39 posts.

Be that as it may, since respondent No.2 has stated that an advertisement for the post of Junior Engineer will be published shortly and thereafter follow-up-action shall be taken by the scrutiny branch, so as to process the applications of departmental candidates, we are of the view that the present OA can be disposed of at this stage with a direction to respondent No.2 (DSSSB) to issue advertisement on or before 30.5.2012 and simultaneously also take steps for scrutinizing the applications of the departmental candidates, which process shall be completed within a period of three months from the date of receipt of a copy of this order."

Some of the candidates who were aggrieved by the order extracted above passed in OA 4277/2011, filed Writ Petition No. 4239/2013 before the Hon'ble High Court of Delhi. The Hon'ble High Court of Delhi noted the entire history of the case about the recruitment and particularly under the above said advertisement 02/2012 and ultimately held that the petitioners before the High Court shall submit their application against the above said advertisement before 31.10.2013 and the respondent-DJB shall forward those applications to DSSSB within a period of two weeks and the DSSSB shall process their candidature. The order of Hon'ble High Court dated 07.20.2013 passed in Writ Petition (Civil) No 4239/2013 is extracted below:-

- "1. In the year 1991 the erstwhile Delhi Water Supply and Sewage Disposal Undertaking (now Delhi Jal Board) invited applications from departmental candidates to fill up the post of Junior Engineer.
2. The petitioners and others also applied for the post which was to be filled through a process of interview.
3. As the mode of recruitment was changed to promotion the petitioners and other similarly placed persons filed Writ Petition No.4930/1993 before this Court.
4. The writ petition was transferred to Central Administrative

Tribunal and was numbered as T.A. No.987/2009. The Tribunal disposed of the T.A. vide its order dated November 13, 2009 in terms of the following directions:

"The RR clearly stipulates that percentage of the vacancies to be filled up in the following manner (1) 10% by promotion failing with by direct recruitment, and (2) 90% by direct recruitment. In the relevant year in this case being 1992 and vacancies there available being 40, it is determined that 4 posts of JE (M/E) are to be filled up by promotion and 36 posts by direct recruitment. In that year, if 4 vacancies were not filled up by promotion since eligible feeder category employees were not available, those 4 posts are to be filled up by direct recruitment.

The next issue is procedure to be adopted for direct recruitment. The Respondents are competent to engage DSSSB or any other agency admissible for the direct recruitment purpose. Whatever was the direct recruitment practice (Interview or Written tests +Interview) in the relevant year must be followed to fill up those vacancies. This exercise shall be completed within 3 months from the date of this order. It is needless to mention that those of the Applicants who get selected and appointed in the post of JE (M/E) will be positioned from appropriate year notionally with no arrears of pay accruing to them. We also direct that those Work Assistants who were promoted to the direct recruitment quota of JE (M/E), are to vacate such posts.

Those of the Applicants who have applied for the post of JE (M and E) then direct recruitment quota are eligible for the age relaxation as already ordered by the Hon'ble High Court of Delhi."

5. As the new recruitment agency was assigned the selection process, the petitioners and others filed Original Application No. 4277/2011 before the Tribunal, which was disposed of by the Tribunal in terms of the following directions:

"It is further stated by respondent No.2 that after advertisement the names of the departmental candidates will be forwarded to scrutiny branch of this office for issuance of roll numbers to them. However, learned counsel for respondent No.1 submits that requisition has been sent for filling up of 42 posts of Junior Engineer instead of 39 posts.

Be that as it may, since respondent No.2 has stated that an advertisement for the post of Junior Engineer will be published shortly and thereafter follow-up-action shall be taken by the scrutiny branch, so as to process the applications of departmental candidates, we are of the view that the present OA can be disposed of at this stage with a direction to respondent No.2 (DSSSB) to issue

advertisement on or before 30.05.2012 and simultaneously also take steps for scrutinizing the applications of the departmental candidates, which process shall be completed within a period of three months from the date of receipt of a copy of this order."

6. It is the case of the petitioners that when the respondents were not taking any action for scrutiny of their applications they moved C.P No.769/2012 in Original Application No.4277/2011, which was dismissed by the Tribunal vide its order dated April 30, 2013 stating that the petitioners had not applied for the post for which DSSSB advertised vacancies on May 18, 2012. It is the case of the petitioners that they had already applied for the post in the year 1991 and their applications are with the department and moreover the advertisement was for conducting examination (preliminary and main) for vacancies other than 40 original vacancies of 1992 and decision is already in existence for granting selected candidates notional seniority from 1992
7. The controversy which arises for our consideration is whether the petitioners were required to apply pursuant to the advertisement dated May 18, 2012 or their applications alleged to have been submitted in the year 1991 are to be considered. The stand of the respondent No.2 on the other hand was that since the petitioners had not applied their applications have not been forwarded to DSSSB.
8. Mr.Padma Kumar, learned counsel appearing for the petitioners states that the petitioners are ready to file fresh applications pursuant to the advertisement dated May 18, 2012 within a period of two weeks from the receipt of copy of this order.
9. Mr. Nishakant Pandey, learned counsel appearing for the Delhi Jal Board would submit that if the petitioners submit their applications the same would be forwarded to DSSSB. He would also agree that the consideration of the petitioners would be on the basis of interview only.
10. The learned counsel appearing for the DSSSB has stated before us that pursuant to the advertisement the actual selection process has not yet been initiated. Once the applications are forwarded by the Delhi Jal Board the case of the petitioners would also be considered.
11. It is seen that in the year 1991 when the petitioners had submitted their applications the notification was issued by Delhi Water Supply and Sewage Disposal Undertaking whose successor in interest is Delhi Jal Board. Surely 22 years have gone by and it would not be possible for the successor organization Delhi Jal Board to trace out the applications so submitted by the petitioners.

12. It is a case where petitioners have been agitating since very long. They should not be dislodged only on the ground that they have not applied pursuant to the advertisement dated May 18, 2012. They have orders passed on April 06, 1995, November 13, 2009 and April 27, 2011 in their favour. Moreover in view of the stand taken by the counsel for the parties, we dispose of the writ petition in terms of the following directions:-
- a) The petitioners shall submit their applications pursuant to the advertisement in Employment News on May 18, 2012 by October 31, 2013.
 - b) The Delhi Jal Board, on receipt of the applications from the petitioners forward the same to the DSSSB within a period of two weeks.
 - c) The DSSSB would consider the candidature of the petitioners in terms of the process of interview only as has been directed by the Tribunal in its order dated November 13, 2009 while disposing of TA No. 987/2009
13. We make it clear that we have only decided issue arising from the order dated April 30, 2013 in C.P No. 769/2012 in Original Application No. 4277/2011."

4. In compliance with the order of Hon'ble High Court of Delhi, enumerated in Para 12 (a) in above extracted paras; the respondent-DSSSB sent a letter dated 3.03.2015 to Delhi Jal Board requesting them to send a provisionally eligible departmental candidates who have submitted their application upto 31.10.2013 and in response to the said letter of DSSSB the respondent DJB vide letter dated 12.03.2015 sent a consolidated list. The name of applicants of this OA did not find place in the said consolidated list dated 12.03.2015. Aggrieved by their names not finding place in the said list dated 12.03.2015 the applicants have filed the present OA. From the impugned letter dated 03.03.2015 it is crystal clear that the said letter has been issued in compliance with the orders of the Hon'ble High Court dated 07.10.2013 which is extracted above and from the perusal of para 12(a) of said order it is crystal clear that the relief was given by the Hon'ble High Court to the petitioner before the

High Court and admittedly the applicants were not party in the said Writ Petition No. 4239/2013 and on the basis of these facts the counsel for the respondents vehemently supported the impugned letters dated 3.3.2015 and 12.03.2015 and submitted that they shall not be interfered with.

5. The counsel for the applicants vehemently and strenuously contended that the applicants are similarly situated as those who were parties before the High Court in Writ Petition (Civil) 4239/2013 and that since they had also applied in 1991 for the said posts, the relief prayed for by them in this OA requires to be granted.

6. In view of the facts and circumstances narrated above and in view of the fact that the Hon'ble High Court had granted reliefs only to the petitioners before the High Court and the said judgment is not judgment in rem and as such this Tribunal cannot pass any order in contravention of the order of the High Court and give direction to the respondents as prayed for by the applicants. Accordingly, OA is dismissed. MAs pending, if any, stand disposed of. No order as to costs.

(S.N.Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

'sk'

....