

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

- 1) O.A. No. 1497 of 2003
With
- 2) O.A. No. 1503 of 2003
- 3) O.A. No. 1536 of 2003

New Delhi, this the 19th day of August, 2003

HON'BLE SHRI SHANKER RAJU, JUDICIAL MEMBER
HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

1. Manjeet Singh,
S/o Sh. Narain Singh,
RZ-G/72, Mahavir Enclave,
New Delhi-110045.
2. Raj Kumar S/o Sh. Bansu Lal,
R/O: RZ-G/147B, Sita Puri, Gali No.6,
Part II, Dabri,
New Delhi-53
3. Chander Shekhar,
S/o Late Sh. Dhani Ram,
Gali No.9, B-Block,
Indra Prastha Colony,
Burari,
New Delhi
4. Mrs. Sunita Pathak,
W/o Mr. Arvind Pathak,
B-4/25B, Ashok Vihar Phase-II,
Delhi- 52
5. Narender Kumar,
S/o Sh. Jai Ram Singh,
D-114, Sector-5,
Dr. Ambedkar Nagar,
New Delhi-62
6. Mrs. Anita Rangra,
W/o Mr. Ish Rangra,
B-3/9A, Keshav Puram,
Delhi-52

....Applicants

Versus

Sports Authority of India,
through
Secretary,
at Corporate Office,
Jawaharlal Nehru Stadium,
Lodi Road Complex,
New Delhi-110003

.....Respondent

2) OA No. 1503 of 2003

1. Joginder Kumar,
S/o Sh. Prithi Chand Rana,
R/o Q. No.4, Sardarni Quarters,
SAI, NS NIS, Old Moti Bagh,
Patiala-147001 (Punjab)

Wingman

2. Pushkar Singh,
S/o Shri Himmat Singh, -
R/O H.No.3054/A, Sector-52,
Chandigarh.

3. P.Subash Nair,
S/O Sh.K.Govindan Kutty,
160-C, GTB Enclave,
Dilshad Garden,
New Delhi-93

....Applicants

Versus

Sports Authority of India,
through
Secretary,
at Corporate Office,
Jawaharlal Nehru Stadium,
Lodi Road Complex,
New Delhi-110003

.....Respondent

3) OA No.1536 of 2003

T.K.Ajil,
S/o Sh. T.K.Narayana Pillai,
R/o Sports Authority of India Hostel,
Netaji Subhash Southern Centre,
Bangalore.

....Applicant

Versus

Sports Authority of India,
through
Secretary,
at Corporate Office,
Jawaharlal Nehru Stadium,
Lodi Road Complex,
New Delhi-110003

.....Respondent

Advocates:

Shri Sewa Ram , learned counsel of applicants
in all OAs.

Shri C.Hari Shanker, learned counsel of
respondent in OA-1497/2003.

Shri Arun Bhardwaj, learned counsel of
respondents in OA- 1503/2003 and OA-1536/2003.

ORDER (ORAL)

SHRI R.K.UPADHYAYA,ADMINISTRATIVE MEMBER

All the three OAs are disposed of by a common
order as the facts and impugned orders are similar.

1.OA No.1497/2003

2(a). All six applicants in this OA have jointly

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challenged their reversion order dated 4.6.2003 (Annexure A-1) from the post of Data Entry Operator (DEO) to their original post purportedly to give effect to the orders dated 11.3.2003 in OA No.79/2002 of Bangalore Bench of this Tribunal in the case of Mrs.S.Manjula.

2(b). The applicants in this case, prior to their selection and appointment as DEOs were working as "permanent/regular employees" in Group C and D posts of Groundsman, Lab. Attendant, Lady Attendant and LDC in Corporate Office at New Delhi of the Sports Authority of India (SAI)

2.OA No.1503/2003

3. These three applicants have jointly challenged their reversion order dated 4.6.2003. Applicant No.1 Shri Joginder Kumar has been reverted as Lab.Attendant O/o ED (A), SAI, NR, Patiala. Applicant No.2 Shri Pushkar Singh has been reverted as Watchman, Netaji Subhash, Northern Centre, SAI, Chandigarh and Shri P.Subhas Nair, applicant No.3 in the OA has been reverted to his original post of DEO (Daily Wages), O/o PS to Minister of Sports, New Delhi.

3.OA No.1536/2003

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4. The applicant Shri T.K.Ajil is also aggrieved by the order of reversion dated 4.6.2003, issued by SAI, New Delhi, reverting him to his original post of Groundsman, Netaji Subhas Southern Centre, SAI, Bangalore.

5. It is stated by the applicants that SAI issued circular dated 22.9.99 (Annexure.A-2 in OA 1497/2003) from "Regular employees of SAI who fulfilled the eligibility conditions" of "1. Higher Secondary/Senior Secondary:, 2. certificate in Data Entry Operation (Persons working on Daily Wage basis as DEO for the last 5 years may also apply" for the post of DEO in the scale of Rs. 3050-4590. Subsequently a test was conducted on 2.8.2000. All the ten applicants were declared qualified in the Limited Departmental Examination vide order dated 31.10.2000 and appointed as DEOs.

6. One Smt. S.Manjula appointed as DEO on contract basis w.e.f. 1.9.1994 had also applied for the post of DEO as per Circular of September, 1999. However, she was not allowed to appear in the test. Her services were also terminated as per order dated 26.11.2001. She filed OA No.79/2002 before Bangalore Bench of this Tribunal which by order dated 11.3.2003 directed the respondents as follows:

"11. In the light of the facts stated above, the impugned order dated 26.11.2001 (Annexure A-26) passed by the 3rd respondent is set aside. The applicant will be given an opportunity to appear at the test/examination for the post of DEO in SAI. The Executive Director, SAI, Res.No.1 will ensure that the test for the post of DEO in SAI, in which the applicant will be allowed to

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participate is conducted in a fair and objective manner and in accordance with the Regulations and rules of appointment within a period of four months from the date of receipt of a copy of this order. The OA is partly allowed. The applicant shall continue in service till the exercise as directed hereinabove is completed. The selection and appointment of other candidates will have to be regulated after considering the applicant for the post in question in appropriate manner. No costs.

7. The applicants further state that they were not impleaded as party in Smt. S.Manjula's case (supra). Therefore, the impugned order of their reversion is not as per directions of the Tribunal. The Bangalore Bench of the Tribunal has also not directed to cancel the Limited Departmental Exam. held on 2.8.2000. The Tribunal has merely directed to consider the case of Smt. S.Manjula as she was wrongly not allowed to appear in the Test held on 2.8.2000. It is also claimed that there are still some vacant posts of DEO even today. The respondents could assess the suitability of Smt. S.Manjula as directed by the Tribunal and post her against the vacant post. Alternatively the learned counsel pointed out that Smt. S.Manjula if found suitable for appointment as per directions of the Tribunal could be accommodated by reverting only the last selected candidate. In any case, reversion order dated 4.6.2003 of the applicants was unjustified and deserved to be set aside and quashed.

8. The respondents have opposed the applications and have stated that the only proper course to implement the directions of the Tribunal in Smt. S. Manjula's case was first to cancel the earlier selection and to

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hold fresh selection in which Smt. S.Manjula could also take part. According to the respondents, the examination held on 2.8.2000 had to be cancelled "due to irregularities committed by disallowing eligible candidates."

9. The respondents have further stated that "it is necessary to scrap the earlier examination as void and conduct a fresh examination by giving an opportunity to the applicant and others who had qualified in the exam. conducted in October, 2000 along with Ms. Manjula and others placed similarly to Ms. Manjula" (emphasis supplied).

10. The respondents have submitted the list of 15 persons as eligible for the post of DEO who were allegedly not considered for appointment. The learned counsel of the respondents have stated that unless a fresh examination is held after cancelling the last selection, the directions of the Bangalore Bench of this Tribunal in OA No.79/2002 could not be implemented.

11. In the rejoinder affidavit, the applicants have stated that the plea taken by the respondents is totally unfounded and against the facts of the case. The Bangalore Bench of this Tribunal has merely directed the respondents to give an opportunity to the applicant (Smt. S. Manjula) in that OA to appear in the exam. for the post of DEO in SAI. There is no direction for cancellation of earlier Limited Departmental Exam. or reversion of the applicants. It was also stated by the learned counsel of the

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applicants that the case of Smt.S.Manjula could be considered for filling up the remaining vacant post of DEO. Regarding the list of 15 persons who are alleged to be eligible for being considered but were not considered, it is stated that none of these 15 persons had applied in pursuance to the Circular dated 22.9.99. Therefore, they cannot be allowed to make any grievance against the persons selected through LDE.

12. We have considered the rival submissions and have perused the materials available on record.

13. As can be seen from the directions of the Bangalore Bench of this Tribunal in OA No.79/2002, extracted earlier, the direction was to hold the suitability test for Smt.S.Manjula for the post of DEO. There is no direction in the said order of the Bangalore Bench that the entire selection process is vitiated and deserves to be cancelled. There is also no observation regarding the selection of the applicants, except in the case of one P.Subhash Nair who was a Daily Wager in the Corporate Office, New Delhi. The Bangalore Bench of this Tribunal had taken the note of Regulation 7(i) of the Regulations which provides as follows:

"7(i) Appointment for the purpose of these regulations shall mean appointment to the post whether by promotion, deputation, direct recruitment or on contract basis as shall be in accordance with the provision of the recruitment rules applicable to that post not inconsistent with the Bye Laws or the Sports Authority of India, but will not include ad hoc appointments or appointments on daily wages."

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The case of Shri P. Subhash Nair has been quoted to illustrate that some persons ineligible for the test were allowed to appear in the test. However, in the case of Smt. S. Manjula who was better qualified was denied the opportunity to appear in the test.

14. After careful consideration of the case, we are of the view that the cancellation of entire selection was not proper by the respondents. Therefore, we quash and set aside the order dated 4.6.2003 being Office Order No.97/2003 cancelling the earlier selection in its entirety. However, this direction is subject to the liberty to the respondents to take action against any individual applicant who was not otherwise eligible to appear in the examination as per the recruitment rules and notification of September, 1999.

14.2 The respondents are further directed to take steps for filling up the vacant posts of DEOs in terms of the directions of Bangalore Bench of this Tribunal against the existing vacancies of DEOs. In case, there is no vacancy, the respondents will be at liberty to take action only against the persons placed at the bottom of the select list prepared on the basis of LDE, conducted on 2.8.2000.

15. In view of the directions in the preceding paragraph, these three OAs are partly allowed without any order as to costs.

(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER

Attested: (SHANKER RAJU)
JUDICIAL MEMBER
08/10/03
S.O. (J.E.)