

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1932 of 2003

New Delhi this the 3rd day of March, 2004

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

HON'BLE MR. R. K. UPADHYAYA, MEMBER (ADMINISTRATIVE)

1. Kundan Singh S/O Chander Singh,
working as LVD (G-I),
Light Vehicle Driver (Group-D),
1232, Kalyan Vass,
Delhi-110031.
2. Moti Lal S/O Mange Lal,
working as LVD (G-I),
R/O 4850 Gali No.44,
Regerpura, Karol Bagh,
New Delhi-110005.
3. Laxmi Narain,
working as LVD (G-II),
H.No.595, Gali No.7, Sangam Vihar,
New Delhi-62.
4. Hari Singh,
working as LVD (G-I),
H.No.125, Ali Ganj,
Lodhi Road, New Delhi-110003.

... Applicants

(By Advocate : Shri Dhiraj K. Sammi)

-Versus-

1. Govt. of NCT of Delhi through
Secretary, Govt. of NCT of Delhi,
Room No.215, Old Sectt.,
Delhi-110054.
2. Dy. Director General,
Govt. of NCT of Delhi,
NCC Department,
CHABI Ganj, Kashmere Gate,
Delhi-110006.

... Respondents

(By Advocate : Ms. Pratima K. Gupta)

O R D E R (ORAL)

Hon'ble Mr. Shanker Raju, Member (Judicial) :

Applicants impugn respondents' order dated 16.7.2003
rejecting their request for ante dating their promotion as
well as grant of promotion to the post in the special
grade.

2. Applicants are Drivers in the Grade-I, except applicant No.2, who is in Grade-II. They are seniormost in the seniority list dated 1.1.2003. Department of Personnel & Training vide letter dated 27.7.1995 formulated a promotion scheme for Staff Car Drivers wherein regular service of nine years in the ordinary grade is required for Driver Grade-II and six years regular service as Staff Car Driver Grade-II for Driver Grade-I.

3. As per the promotion scheme for Staff Car Drivers issued vide memorandum dated 15.2.2001, a special grade has been introduced in the scale of Rs.5000-8000 w.e.f. 8.11.1996 through non-selection (seniority-cum-fitness) from Grade-I with three years regular service in Grade-I of Staff Car Driver. By an order dated 11.1.2002, juniors to applicants have been placed in the pay scale of Rs.4000-6000 with retrospective effect. Applicants who appeared in the trade test have failed to qualify in the first attempt but on qualifying it in the second attempt, were promotion w.e.f. 21.5.2003 in Grade-I and Grade-II.

4. Applicants represented for promotion to the post of special grade which was turned down, giving rise to the present OA.

5. The learned counsel of applicants contends that the action of the respondents is arbitrary, violative of Articles 14 and 16 of the Constitution. As juniors have been accorded ante dated promotion, the applicants are also entitled for the same.

6. However, the learned counsel for respondents contends that as per the promotion scheme for Staff Car Drivers by the DOP&T vide OM dated 13.11.1993 as per paragraph 2.4, passing of trade test is mandatory for appointment to the posts in Grades-II and I even by seniority-cum-fitness.

7. It is further stated that passing of test and availability of vacancy, whichever is later, is the requirement. As the applicants have not passed the trade test in first attempt, they have not been promoted.

8. By producing the relevant records, i.e., the advice given by the Associate Finance Department, it is stated that passing of trade test is a pre-condition for promotion to the respective grades. So, the date of promotion should be from the date of passing the trade test or from the date of availability post in the higher grade, whichever is later.

9. The learned counsel further contends that three years regular service in the Grade-I of Staff Car Driver is to be considered for special grade of Staff Car Driver according to the formulated scheme.

10. We have carefully considered the rival contentions of the parties and perused the material on record.

11. In order to pass the twin test laid down under Article 14 of the Constitution which mandates equal

treatment to be meted out to similarly situates, any discrimination or differential treatment should be reasonable and in furtherance of object sought to be achieved. Any deviation would be hostile discrimination. We do not find either from DOP&T OM of 1993 or 1995 drawing special promotion scheme for Staff Car Drivers in different trades that who pass the trade test in the first attempt, their promotion is to be ante dated. In absence of such a stipulation, accord of ante dated promotion to juniors of applicants on the basis of passing the trade test in the first attempt has no nexus with the object to be achieved and offends principles of equality. We also find that sine qua non is a condition precedent for promotion to the different grades including special grade on passing of the trade test. Once a person passes the trade test, his promotion as per the guidelines shall take effect from the date of passing the trade test, but adopting a different criteria for the juniors is not legally sustainable.

12. Having regard to the above, we partly allow this OA by setting aside the impugned order and directing the respondents to consider the grievance of applicants regarding promotion in the higher grade, in the light of observations made above, by passing a detailed speaking order within a period of two months from the date of receipt of a copy of this order. No costs.



(R. K. Upadhyaya)
Member (A)



(Shanker Raju)
Member (J)

/as/