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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.176/2003 &
M.A. NO.179/2003

New Delhi this the 20th day of March, 2003.

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN

HON'BLE SHRI GOVINDAN S.TAMPI, MEMBER (A)

1. Zile Singh
2. Rajbir Kharb
3. Attar Pal Singh

All working as Sub Officers in Delhi Fire Service at various Stations in Delhi. Applicants

(By Shri S.K.Gupta, Advocate)

vs.

1. Union of India through:
Secretary, Ministry of Home Affairs
North Block, New Delhi
2. Director General
Civil Defence,
Ministry of Home Affairs
Jaisalmer House, New Delhi.
3. Director
National Fire Officer College
Ministry of Home Affairs, Nagpur.
4. Chief Fire Officer
Delhi Fire Service
Fire Headquarters
Connaught Circus, New Delhi.
5. Shri Kuldeep Pakad
Assistant Commissioner (Fire)
Delhi Fire Service
Fire Headquarters
Connaught Circus, New Delhi. Respondents
(Respondent 1 & 2 through Shri R.N.Singh,
Advocate; Shri Ashwini Bhardwaj, proxy for Shri
Shri Rajan Sharma, Advocate for respondents 3 & 4)

O R D E R (ORAL)

Justice V.S.Aggarwal:-

MA No.179/2003

MA No.179/2003 for joining together in OA
No.176/2003 is granted.



2. Applicants are working as Sub Officers in Delhi Fire Service. By virtue of the present application, they seek that the action of respondents 4 and 5 in not relieving the applicants is illegal and that they should be permitted to join the 50th Station Officer and Instructor's Course at Nagpur as they are fully eligible to do so.

3. Some of the relevant facts are that the next promotional avenue available to the post of Sub Officer in Delhi Fire Service is to the post of Station Officer and as per the eligibility, five years service is required in the feeder cadre i.e. the qualification of passing Station Officer & Instructor's Course from the National Fire Service College, Nagpur. As per the requirement of the rules, the applicants contend that no age limit is prescribed for the purposes of promotion.

4. Director, National Fire Service College, Nagpur had issued the prospectus for the 50th Station Officers & Instructors Course which was to commence from 6.1.2003 upto 27.6.2003. The applicants were fully eligible in terms of the prospectus for the course. Before the start of the course, respondent No.3 had issued a letter by which certain age limit was prescribed. Some of the Sub Officers of Delhi Fire Service had challenged the same on various grounds. Interim orders were passed permitting them to join the

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course. It was contended that in terms of the above eligibility, respondent No.4 (Chief Fire Officer, Delhi Fire Service) had sponsored the names of the applicants for the aforesaid Station Officers' & Instructors' course vide letter dated 31.12.2002. All the applicants were medically examined and report was even sent to respondents. The grievance of the applicants, as already pointed is that they are not being relieved though they fulfil the eligibility criteria and on that count, the abovesaid reliefs already referred to above are being claimed.

5. Separate replies have been filed to contest the application, one by respondents 1 to 3 and the other by respondents 4 and 5.

6. So far as respondents 1 to 3 are concerned, their claim is that there was no age bar for undergoing Station Officers Course from July 1996 to December 2002 because the Government has given age relaxation for a period of 5 years. It had been decided to give age relaxation vide the letter dated 20.1.2003. Respondent No.3 conducts various courses to strength^{en} and improve the Fire Service and to cater^{to} the needs of all the States of the country. Applications are invited from various States and the Union Territories. It admits candidates as sponsored by such States and Union Territories. In case one State or Union Territory does not sponsor the name of a particular candidate

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or it sponsors the names of the candidates in excess of the prescribed ratio/seats, the respondent No.3 cannot be held responsible for non-inclusion of the name of a particular candidate.

7. Respondents 4 and 5 also contested the application. They pleaded that the applicants were nominated for undergoing Station Officers and Instructors Course to be conducted by the National Fire Service College, Nagpur vide letter dated 31.12.2002. The National Fire Service College confirmed the nomination of the applicants on provisional basis. Before these officers could be relieved, this Tribunal had directed the respondents to send certain persons for training at the National Fire Service College, Nagpur. Five more candidates had to be relieved in terms of the directions of this Tribunal. The seats for the course are limited. Respondents 4 and 5 requested respondent No.2 to allot at least nine seats so that all the candidates including the applicants are accommodated. Respondent No.3 had been requested to confirm the seats for all the candidates. Respondent No.3 informed that there were only three seats vacant in the ongoing Station Officers and Instructors Course.

8. We have heard the learned counsel for the parties.





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9. During the course of submissions, our attention was drawn to the letter of the Ministry of Home Affairs dated 20.1.2003 addressed to all the Chief Secretaries. It pointed that it has been decided to extend the age limit relaxation in all the three courses upto December 2007 and not after than. On the strength of this letter, it was pointed that relaxation was applicable uptill 31.12.2007. As such, on behalf of the applicants, it was urged that the instructions could not be issued after the names had been sponsored and reliance in this regard was being placed on a decision of the Delhi High Court in the case of Mrs. Anjana Chattopadhyay v. Union of India and ors. in Civil Writ Petition No.3680/1997 rendered on 28.8.2002. In the cited case, the post of Director, National Medical Library under the Directorate General of Health Services was advertised by the Union Public Service Commission and certain qualifications had been prescribed. The petitioner before the Delhi High Court had applied for the post and was selected. Question had arisen as to whether the petitioner fulfilled the qualifications or not. Certain instructions in this regard had been issued. This Tribunal had dismissed the application. The Delhi High Court held that the Department of Personnel and Training cannot supplement the requisite qualification appearing in the advertisement after the selection process was over. The findings in this regard read:-

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"Keeping in view the facts and circumstances of the case, we are of the opinion that the learned Tribunal has erred in holding that the DoPT can supplement the requisite qualification appearing in the advertisement after the selection process was over. It was for the Commission to satisfy itself as to whether the candidate possess requisite qualification or not. If the candidate possessed the requisite qualification, in our opinion, the Directorate of DOPT could not issue afore-mentioned clarification. It is one thing to say that the statutory rules can be supplemented by Government of India (Transaction of Business) Rules, 1961, framed under Article 77(3) of the Constitution of India. But it is another thing to say that by way of clarification the DOPT could impose a condition which was not contemplated by the Ministry and additional qualification in the nature by way of a clarification as regards experience in a particular post, in our opinion, is not contemplated in law nor can it be said to an Executive Instruction under Article 77 of the Constitution of India. In other words, when the Commission had proceeded to select the candidate on the basis of stipulation made in the advertisement it was bound and stick thereto and the DOPT had no jurisdiction to impose additional condition by way of clarification or otherwise. The learned Tribunal, in our opinion, also erred insofar as it failed to take into consideration the decision of Central Administrative Tribunal, Hyderabad by holding that the same had been rendered in a different facts of the case as the learned Tribunal failed to pose a right question."

Similar findings have been returned in another decision from the same Court in the case of P.Gopalakrishnan v. Union of India & ors. in Civil Writ Petition No.2706/1999 rendered on 18.5.2002. Therefore, once the selection as in the present case which is not in dispute was over, such instructions could not have been issued. We, therefore, do not approve of the said letter supplementing the instructions which have already been issued while the selection process had been over.

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10. However, on merits of the matter, the controversy raised was that there were only three seats that were allocated for Delhi and the same have been filled up and presently, the National Fire Service College, Nagpur which has only three seats in all for the course cannot accommodate more persons in this regard.

11. The National Fire Service College, Nagpur is an institution that was set up in 1956. For the course in question, there is little controversy that there were 30 seats in all. Out of them, three seats had been allocated to Union Territory of Delhi. Since it is an All India course, allocations are made to all the States and the Union Territories. Admittedly more than three persons have joined as a result of the selection process or in pursuance of the orders of the Tribunal. At this stage, therefore, inducting more people would not be appropriate more so when the said course has already started in January 2003.

12. Keeping in view the reasons recorded in the preceding paragraph, we disapprove of the letter at Annexure R-1 dated 20.1.2003. But keeping in view the quota of the seats available i.e. 3 seats for Delhi, the application fails and is dismissed. No costs.

Announced.

(Govindan S. Tampi)
Member (A)

/sns/

(V.S. Aggarwal)
Chairman