

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No. 4139/2014

New Delhi, this the 10th day of December, 2019

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)



Bular Pal
Aged 54 years
S/o Shri Sita Ram
Working as Driver Grade-I
In the Office of District Magistrate
Delhi Establishment Branch
12/1, Jam Nagar House, New Delhi
R/o B-69, Gali No.6, Laxmi Vihar
Burari, New Delhi-84.

.. Applicant

(By Advocate : Shri Yogesh Sharma)

Versus

1. Govt. of NCT of Delhi through
The Chief Secretary
New Sectt., I.P. Estate
New Delhi.
2. Principal Secretary (Revenue)/
Divisional Commissioner, Delhi
Govt. of NCT of Delhi
Revenue Department (HQ)
5, Sham Nath Marg, Delhi.
3. The Deputy Commissioner/District Magistrate
Govt. of NCT of Delhi
12/1, Jam Nagar House
New Delhi-11.

.. Respondents

(By Advocate : None)

O R D E R (ORAL)**Justice L. Narasimha Reddy, Chairman**

The applicant joined the service of the Govt. of NCT of Delhi as an Driver Ordinary Grade in the year 1988. In the category of Drivers, there existed four Grades, namely, Ordinary Grade, Grade-II, Grade-I and Special Grade. Before the cadre structure was revised, the number of posts in the four Grades used to be 30, 30, 35 and 5, respectively. In the year 2001, the cadre was revised to 44, 7, 8 and 1.

2. The applicant became eligible to be considered for promotion to Grade-II in the year 1997. However, since disciplinary proceedings were pending against him, sealed cover procedure was adopted. The proceedings ended up in imposition of penalty of withholding of one increment without cumulative effect, through order dated 03.12.2009. On an appeal preferred by the applicant, the penalty was reduced to the one that of censure.

3. The applicant filed O.A. No.1010/2011 before this Tribunal, complaining that the sealed cover was not



opened and challenging the penalty of censure. The O.A. was allowed on 04.05.2012. As a result of that, the respondents opened the sealed cover and he was promoted to the post of Driver Grade-II w.e.f. 16.05.1997, through an order dated 01.08.2013. Subsequently, he was promoted to the post of Grade-I w.e.f. 16.05.2003, through order dated 25.04.2014. On a representation made by the applicant for promotion to the Special Grade, the respondents passed an order dated 06.02.2014. After narrating the entire episode, the respondents informed the applicant that there was only one post of Driver Special Grade and it was acquired by one Shri Amar Nath. The same is challenged in this O.A.

4. The applicant contends that number of posts, which existed earlier, needs be taken into account; and the mere fact that the cadre structure of Drivers was revised, should not come in the way of his promotion. Other grounds are also urged.

5. Respondents filed counter affidavit opposing the O.A. It is stated that once the order of censure was set

aside, the applicant was granted promotion to Driver Grade-II and Driver Grade-I; and further promotion could not be extended to him, for want of vacancy.

6. We heard Shri Yogesh Sharma, learned counsel for the applicant. There was no representation for the respondents.



7. The impugned order is narrative of the entire facts. Though the sealed cover procedure was adopted in the case of the applicant, it was opened later on; and promotions to the post of Driver Grade-II and Driver Grade-I were extended. It may be true that the cadre structure had 5 posts of Special Grade Drivers, when the disciplinary proceedings were initiated against the applicant. However, the number of posts, to which he was entitled to be promoted, was already taken into account. In all fairness to the applicant, though in the year 2013, the number of posts in Driver Grade-II was reduced, he was accommodated; and so was the case of Driver Grade-I. The eligibility of the applicant for promotion to the post of Driver Special Grade came much later. By that time, the

cadre contained only one post. Therefore, he cannot insist on being accommodated against the post of Driver Special Grade, by treating the cadre strength as 5. We do not find any legal or factual defect in the impugned order.



8. It is brought to our notice that the incumbent in the post of Driver Special Grade retired on 30.04.2019. If the applicant is the immediately available senior and the DPC declares him fit; he shall be entitled to be promoted. The respondents shall consider the case of the applicant for promotion as Driver Special Grade, within two months from the date of receipt of a certified copy of this order.

9. The O.A. is disposed of accordingly. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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