

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

**ORIGINAL APPLICATION NO. 291/212/2018
with
MISC. APPLICATION NO. 291/276/2018**

ORDER RESERVED ON: 06.03.2020

DATE OF ORDER: 29.05.2020

CORAM

**HON'BLE MR. SURESH KUMAR MONGA, JUDICIAL MEMBER
HON'BLE MR. A. MUKHOPADHAYA, ADMINISTRATIVE MEMBER**

Rinku Sharma S/o Hari Prasad Sharma, aged about 33 years,
R/o Village-Brahampur, Tehsil-Kathumar, District Alwar,
Rajasthan.

Presently posted as 'Peon' (Group-D) at Garrison Engineer,
Military Engineering Services, Itarana, Alwar, Rajasthan.

....Applicant

Ms. Sara Parveen, proxy counsel for
Shri Tanveer Ahmed, counsel for applicant.

VERSUS

1. Union of India through Secretary, Ministry of Defence,
Government of India, New Delhi – 110001.
2. Chief of Army Staff, Indian Army, Integrated Headquarter of
the Ministry of Defence (Army), DHQPO, New Delhi –
110001.
3. General Officer Commanding in Chief, South Western
Command, C/o 56, APO, Pin-908546.
4. Brigadier (Administration), Headquarter South Western
Command, C/o 56, APO, Pin – 908546.
5. Garrison Engineer, Military Engineering Services, Itarana,
Alwar, Rajasthan, Pin-301023.

....Respondents

Shri Lalit Mohan Bhardwaj, counsel for respondents.

ORDER

Per: Suresh Kumar Monga, Judicial Member

The pleaded case of the applicant herein is that an
advertisement was issued by the Headquarters, South Western

Command on 13.07.2005 inviting therein the applications for appointment on various posts including the post of a Safaiwala. The applicant, being eligible for the post of Safaiwala, had applied and he was selected and appointed by the respondents on the said post on 22.03.2006. Pursuant thereto, he was given his first place of posting at Jaipur and subsequently he was ordered to be posted at Alwar on 22.02.2016 as a Peon where he is continuing as such since 23.02.2016. Subsequently, the orders regarding his pay fixation were also issued by the respondents as he was granted the benefit of MACP Scheme vide orders dated 19.09.2017 and 21.12.2017. It has further been averred that in the month of March, 2017, the respondents invited the applications for holding the departmental examinations to promote the candidates as Lower Division Clerks and in that regard an eligibility certificate was also issued in favour of the applicant. It has been stated that through the advertisement, pursuant to which the applicant was selected and appointed on the post of Safaiwala, 92 different posts, i.e. Stenographer Grade-III, LDC, Safaiwala, Messenger and Mazdoor, were advertised. The respondents did not confirm the services of the applicant as well as the other similarly situated candidates immediately after completion of their probation period and rather their probation period was extended twice. In the year 2014, a fresh merit list was issued by the respondents for the recruitment made pursuant to aforesaid advertisement in the year 2005, while citing a reason that earlier the roster system for reservation was not followed. The respondents while doing so, terminated the services of nine candidates. Subsequently, the respondents vide an internal communication

dated 02.02.2018 also contemplated termination of services of the applicant herein. Aggrieved by the said action of the respondents, the applicant has invoked the jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 seeking therein the following relief: -

- "I. The action on the part of respondents in proceeding towards terminating the services of the applicant may kindly be declared arbitrary and illegal and accordingly the respondents may be directed not to proceed further on the basis of the letter dated 2.2.2018 and the same may be quashed and set aside and accordingly the respondents may be directed not to disturb the services of the applicant as he was appointed vide order dated 22.03.2006 (Annexure A/3), in the interest of justice.
- II. Any other order or direction which this Hon'ble Tribunal deems just and proper may also be passed in favour of the applicant."

2. The matter came up for preliminary hearing before this Tribunal on 15.05.2018 and the respondents were put to notice for 24.05.2018. Thereafter, a Misc. Application No. 291/276/2018 was filed by the applicant to restrain the respondents from terminating his services. The said Misc. Application was considered by this Tribunal on 31.05.2018 and the respondents were directed to maintain status quo with regard to services of the applicant and pursuant thereto, the applicant is continuing in service upto today.

3. The respondents by way of filing a joint reply have opposed the applicant's claim and prayed for dismissal of the Original Application.

4. Heard learned counsels for the parties.

5. Ms. Sara Parveen, appearing as proxy for Shri Tanveer Ahmed, learned counsel for the applicant contended that the present Original Application is squarely covered by an order dated 29.05.2018 passed by this Tribunal in the case of **Hemant Kumar Gupta and Others vs. Union of India and Others** (OA No. 291/455/2017), wherein while setting aside the termination orders of the similarly situated persons, this Tribunal ordered for their reinstatement in services with all consequential benefits. Learned counsel further submitted that the respondents have not challenged the said order and the same has attained finality. She still further submitted that while relying upon the aforesaid order dated 29.05.2018, this Tribunal has also allowed one more Original Application No. 291/414/2018 on 17.07.2019 (**Ranjeet Singh Chahar vs. Union of India & Others**) and the order dated 17.07.2019 has also been implemented by the respondents by reinstating Shri Ranjeet Singh Chahar (applicant therein) in services. Ms. Sara Parveen further submitted that the applicant's case is on better footings rather than the applicants in afore-stated Original Applications as before his services could be terminated, he was granted an interim order on 31.05.2018 and consequent thereto, the respondents allowed him to continue in the services.

6. Shri Lalit Mohan Bhardwaj, learned counsel for the respondents could not dispute the fact that the applicants in aforesaid O.A. No. 291/455/2017 and OA No. 291/414/2018 are

similarly situated persons, who were also appointed by the respondents pursuant to advertisement dated 13.07.2005. Learned counsel also could not dispute the fact that the orders passed by this Tribunal in O.A. No. 291/455/2017 and OA No. 291/414/2018 have already been implemented by the respondents.

7. In view of the above, we do not see any reason to take a different view than the view earlier taken by this Tribunal in the cases of **Hemant Kumar Gupta and Others** (supra) and **Ranjeet Singh Chahar** (supra) and, therefore, the present Original Application deserves to be allowed in the same terms.

8. Accordingly, the present Original Application is allowed. The order dated 02.02.2018 (Annexure A/1) qua the applicant is hereby quashed and set aside. However, there shall be no order as to costs.

9. Since the Original Application itself has been allowed, therefore, nothing survives in Misc. Application No. 291/276/2018 and the same is also disposed of having been rendered infructuous.

(A. MUKHOPADHAYA)
ADMINISTRATIVE MEMBER

(SURESH KUMAR MONGA)
JUDICIAL MEMBER