

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA 1146/1986

Date of decision: 22.07.1992

Shri Bhagwan Dass

Applicant

Vs.

Union of India & Another

Respondents

For the Applicant

Shri J.S. Bali, Sr.
Counsel with
Shri S.S. Tiwari,
Counsel

For the Respondents

Shri M.L. Verma,
Counsel

CORAM:

The Hon'ble Mr.P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr.B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed
to see the Judgment? *Yes*

2. To be referred to the Reporters or not? *No*

JUDGMENT (ORAL)
(of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice Chairman(J))

We have heard the learned counsel of both parties and
have gone through the records of the case carefully. The
grievance of the applicant is that he has not been regularised
in the post of Gestetner Operator to which post he was appointed
on ad hoc basis on 20.07.1984.

2. At the time of filing of the application, the applicant
was aged about 57 years. By all means, he would have by now
retired from Government service on attaining the age of 58 years
or 60 years as the case may be. The stand of the respondents
is that the post of Gestetner Operator falls on the reserved

point and has to be filled up by a Scheduled Caste candidate whereas the applicant has contended that a single vacancy cannot be reserved in favour of the Scheduled Caste/ Scheduled Tribe. The respondents have also contended that the application is barred by limitation as the applicant had not filed the present application within one year after the respondents turned down his representation by memo dated 13.06.1985.

3. On 9.2.1987, the Tribunal had heard the learned counsel of both parties and admitted the application and granted an interim order directing that the respondents shall maintain status quo as regards the continuance of the applicant as Gestetner Operator. The interim order was confirmed on 2.3.1987 till the disposal of the case.

4. The applicant has admitted in the application that he officiated on ad hoc basis in a vacancy which arose with effect from 20.07.1984. The learned counsel for the respondents submitted that this was not a single or isolated post created for the first time and that there had been previous incumbents and that there is nothing illegal in reserving a vacancy if it falls on the reserved point. This is being disputed by the learned counsel for the applicant who has heavily relied upon the decision of the Supreme Court in Shri Chakradhar Paswan Vs. State of Bihar & Others, AIR 1988 SC 959.

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5. The Supreme Court has held in Chakradhar's case that reservation of a single post amounts to 100% reservation which is impermissible under Article 16(4) of the constitution. The respondents have also not produced any material to indicate that the post of Gestetner Operator is being filled up according to the roster point.

6. We are not impressed by the contention of the respondents as regards the bar of limitation. The application was filed in December, 1986. A few months of delay in filing the application is liable to be condoned and we condone the same.

7. After hearing both sides, we dispose of the present application holding that the applicant would be entitled to the benefit of service rendered by him in the post of Gestetner Operator from 20.07.1984 till the date of his superannuation on attaining the age of 58 years or 60 years, as the case may be. Accordingly, the applicant would be entitled to pension, gratuity and other retirement benefits in the scale of pay of Gestetner Operator. The respondents shall fix the pension and release the gratuity and other retirement benefits on that basis, if this has

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not already been done by them. The respondents shall comply with the above directions as expeditiously as possible but preferably within 3 months from the date of receipt of this order.

The application is disposed of accordingly.
There will be no order as to costs.

B. N. Dhundiyal
(B.N. DHUNDIYAL)

MEMBER (A)
22.07.1992

P. K. Kartha
(P.K. KARTHA)
VICE CHAIRMAN (J)
22.07.1992

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