

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
~~XXXXXXXXXXXXXX~~

O.A. No. 86 OF 1989
~~XXXXXX~~

DATE OF DECISION 7-9-1989

SHRI PREMSINGH UDAYSINGH Petitioner

MR. K.K. SHAH Advocate for the Petitioner(s)

Versus

THE UNION OF INDIA & ORS. Respondent s.

MR. JAGDISH YADAV FOR MR. J.D. AJME Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.M. JOSHI, JUDICIAL MEMBER

The Hon'ble Mr. M.M. SINGH, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

O.A.No. 86/89

Shri Premsingh Udaysingh,
working as Chowkidar,
Office of the Executive Engineer,
Ahmedabad Central Division,
Ahmedabad Air Port,
Ahmedabad.

..... Petitioner.

Versus.

1. Union of India,
(Notice to be served through
The Director General of Works,
Central Public Works Department,
Nariman Bhavan, Parliament Street,
New Delhi.)

2. The Chief Engineer(WZ), CPWD(BR),
New C.G.O. Building,
New Marine Lines,
Bombay.

3. Executive Engineer,
Central Public Works Department,
New Division,
Near Jawahar Saw Mills Compound,
2nd Floor, Outside Shahpur Gate,
Shahpur, Ahmedabad.

..... Respondents.

Coram : Hon'ble Mr. P.M. Joshi ... Judicial Member.

Hon'ble Mr. M.M. Singh ... Administrative Member

ORAL ORDER

O.A.NO. 86 OF 1989

Date: 7.9.1989.

Per: Hon'ble Mr. P.M. Joshi, Judicial Member.

The petitioner Shri Premsingh Udaysingh who is working as Chowkidar in the scale of Rs. 750-950 in the office of the Executive Engineer, Ahmedabad, has filed this application under section 19 of the Administrative Tribunals Act, 1985. He has challenged the validity of the orders dated 14.4.1988 and 5.7.1988 (Ann. 4 colly.) whereby the petitioner has been informed that his claim for the pay of the Jeep Driver, in the scale of Rs. 900-1500 is not admissible. The petitioner, has been initially appointed as Chowkidar. He claims that as he has been discharging his duties as Jeep Driver with effect from 9.3.87, the respondents should be

directed to regularise him from 9.3.87 as a Jeep Driver in the pay scale of Rs. 950-1500, by issuing appropriate orders and the impugned order be quashed and set aside. He has also prayed that, he is eligible and entitled to the post of Jeep Driver and the benefits for the said post be paid to him.

2. In response to the notice served upon the respondents, ^athat they have filed their objections dated 1.8.89. It is contended inter-alia that the petitioner has no right or claim to be appointed to the post of Driver and regularisation of the said post. He was merely utilised as a Jeep Driver, as he offered his services voluntarily for the same, when office acquired new vehicle' and no post of Driver for the Jeep was sanctioned in the office. It was further submitted that the petitioner is not entitled to promotion or regularisation and much less there is any violation of the principle of "Equal pay for Equal work", as alleged. They have also filed additional reply dated 16.8.89 after the petitioner had filed rejoinder contending inter-alia that the application filed by the petitioner is liable to be dismissed.

3. When the matter came up for admission, we have heard Mr. K.K. Shah and Mr. Jagdish Yadav for Mr. J.D. Ajmera, the learned counsel for the petitioner and respondents respectively. During the course of his arguments it was strenuously urged by Mr. K.K. Shah that petitioner has worked as a Driver from 9.3.1987 and as such he is entitled to the pay scale of Jeep Driver. According to him, after receiving the notice ^{of} the application from the Tribunal, the respondents are not permitting him to discharge his duties as Jeep Driver and hence the petitioner is entitled to claim the reliefs as prayed for. In support of his submissions, he relied

on the cases viz; (i) Jaipal & Ors. V/s. State of Haryana & Ors., (1988) 7 Administrative Tribunals Cases, 771, and (ii) Jai Prakash Gupta V/s. Union of India & Ors., (1988) 7 Administrative Tribunals Cases, 947. On going through both the cases, at the outset it may be stated that both cases are quite distinguishable. In the case of Jaipal, the question of transferability was the only distinct feature in the matter of comparison and consideration. The principles laid down in both the cases are not applicable in the present case.

4. It is pertinent to note that in the present case admittedly there is no order either of appointment or promotion by virtue of which he can claim any benefit of the pay scale of a Jeep Driver. It is undisputed that no post of Jeep Driver against the vehicle has been sanctioned, as requested by the local office to the higher office. The fact that vehicle has been purchased by the office, it does not create the post automatically against the same. The petitioner therefore can not lay any claim for such post simply because he was utilised to drive such vehicle.

5. The petitioner is admittedly holding a substantive post of Chowkidar since 9.3.87 and he is paid for the post held by him. But when a new vehicle acquired by the office, his services are utilised as a Driver, for which he has been given honorarium in terms of the principles enunciated under F.R. 11 & 46(B) which read as under :-

46.(b) Honoraria - The Central Government may grant or permit a Government servant to receive an honorarium as remuneration for work performed which is occasional or intermittent in character and either so laborious or of such special merit as to justify a special reward. Except when special reasons which should be recorded in writing, exist for a departure from this provision, sanction to the grant of acceptance of an honorarium should not be given unless the work has been undertaken with the prior consent of the Central Government and its amount has been settled in advance.

6. During the course of his arguments advanced by Mr. K.K. Shah, he has not been able to place any rules to show that he has any right to claim promotion for the post of Driver or for that matter, regularisation as contended.

Accordingly, the application is rejected at the stage of admission, as it is devoid of merits.

M. M. Singh

(M.M. Singh)
Administrative Member.

[Signature]

(P.M. Joshi)
Judicial Member.