

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 152/1996

199

T.A. No.

DATE OF DECISION : 19.05.2000.



Kishan Gopal Meena _____ Petitioner

Mr. Y.K. Sharma, _____ Advocate for the Petitioner (s)

Versus

Union of India & Ors. _____ Respondent (s)

Mr. R.K. Soni, _____ Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. Justice B.S. Raikote, Vice Chairman

The Hon'ble Mr. Gopal Singh, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *no*
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*

Gopal Singh
(GOPAL SINGH)
Adm. Member

B.S. Raikote
(B.S. RAIKOTE)
Vice Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
J_O_D_H_P_U_R.

Date of Order : 19.05.2000

O.A. No.152/1996

Kishan Gopal Meena S/O Shri Mangi Lal aged 36 years,
working as Storeman under Deputy Chief Engineer
(Construction-II), Northern Railway, Jodhpur, C/O
Shri Hari Ram Chaudhary, 10-A, Shakti Nagar, SCFC
Colony, Ratanada, Jodhpur.

... Applicant

Vs

1. Union of India through General Manager, Northern Railway, Headquarters Office, Baroda House, New Delhi.
2. Chief Administrative Officer (Constn.), Northern Railway, Kashmiri Gate, Delhi.
3. Divisional Railway Manager, Northern Railway, Ambala Division, Ambala.
4. Divisional Personnel Officer, Northern Railway, Ambala Division, Ambala Cantt.
5. Deputy Chief Engineer (Constn.-II) Northern Railway, Jodhpur.

... Respondents

Mr. Y.K. Sharma, Counsel for the Applicant.

Mr. R.K. Soni, Counsel for the Respondents.

CORAM :

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman
Hon'ble Mr. Gopal Singh, Administrative Member

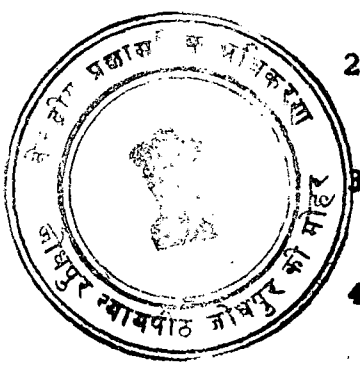
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(PER HON'BLE MR. GOPAL SINGH)

Applicant, Kishan Gopal Meena, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for a direction to the respondents to

Gopal Singh

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regularize his services as Storeman in the grade 800-1150 and protect his pay drawn in the scale 800-1150 on his appointment as Carriage Cleaner scale. The learned Counsel for the applicant, during the hearing submitted that he does not want to press for the prayer of regularization of the applicant as Storeman scale 800-1150, but only prays that the pay of the applicant in the scale 800-1150 be protected.

2. Undisputed facts of the case are that the applicant was initially appointed as a casual labour Gangman on 06.6.'80 in scale 200-250, was further promoted as Storeman scale 800-1150. The applicant also worked as Material Chasing Clerk (MCC) scale 950-1500 for the period from 14.1.1994 to 14.3.'96. The applicant was screened in the year 1996, and was found fit for the post of Carriage Cleaner scale 760-940. The applicant was transferred to Bhatinda under Ambala Division with effect from 06.4.1996 in the grade of 800-1150. The respondents vide letter dated 11.4.1996 (Annexure R/5) also sent the LPC of the applicant indicating therein that the applicant was drawing basic pay of Rs.990 + Rs.12 as P.P. in the scale of 800-1150. However, the applicant was given the scale of ~~760~~-940 on his posting as Carriage Cleaner. The contention of the applicant is that while he was posted as Carriage Cleaner in the scale of 760-940, the pay which he last drew as Storeman should have been protected.

3. In the counter, the respondents have contended that the applicant was appointed as Storeman/Clerk scale 800-1150/950-1500 purely on ad hoc temporary basis and he has been paid the difference of salary for the period he worked as Storeman/Clerk. It is also contended by the respondents that he

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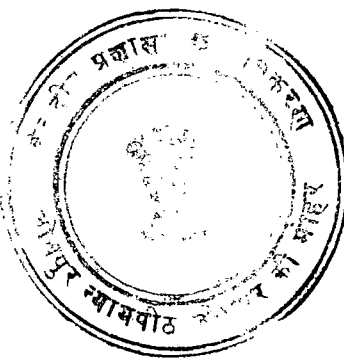
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can neither claim regularization on the post of Storeman nor protection of pay as Storeman on his appointment as Carriage Cleaner.

4. We have heard the learned Counsel for the parties, and perused the records of the case carefully.

5. A similiary controversy came up before us in OA No.34/97- Surjeet Singh Vs. Union of India & Ors. decided on 22.9.1999. In that case the applicant was appointed on ad hoc basis as Mason scale 260-400/950-1500 w.e.f. 22.7.1984, and continued as such till he was posted as Khalasi on 15.4.1997 after screening.. Relying upon the judgement of Hon'ble the Supreme Court in Ram Kumar & Ors. Vs Union of India & Ors - 1996(1) SLJ 116, it was held that the applicant therein was entitled for protection of his pay that he drew as Mason till he was appointed to a Group 'C' post.



6. In the instant case the applicant has worked for more than three years in the scale 800-1150 immediately before his posting as Carriage Khalasi scale 760-940 after screening. Thus, the facts of both the cases are similar and we are of the opinion that the case in hand is fully covered by our order dated 22.9.1999 in O.A. No.34/97.

7. The learned Counsel for the respondents, however, while drawing our attention to Para 2005 of REM Vol II contended that the applicant is not entitled to pay protection. We have carefully gone through Para 2005 of REM Vol II, and found that the said provision deals with the entitlements and privileges admissible to Temporary status casual labour, whereas in the instant case pay protection is sought by the applicant which is not covered by Para 2005. Thus, Para 2005 of REM Vol II is not at all relevant to the facts of the case in hand.

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8. In the light of above discussion, we are of the view that application deserves to be allowed on the lines of O.A. No.34/1997.

9. The Original Application is accordingly allowed. The applicant is entitled to protection of his pay that he drew on the post of Storeman in the scale of 800-1150, on his appointment as Carriage Cleaner scale 760-950 till he is appointed to a grade 'C' post. No costs.

Gopal Singh
(GOPAL SINGH)
Adm. Member

B.S. Raikote
(B.S. RAIKOTE)
Vice Chairman

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Hon'ble member 'A'

Lib —

Received 26/12)

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Oct 26/12/2011

Q. No. 1
25/5/2011
K. S. Sharma

Part II and III destroyed
in my presence on 30/10/06
under the supervision of
section officer (R) as per
order dated 23/9/06

Section officer (Records)

R/Com
25/5/2011
(For Raj K. Sharma)