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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JODHPUR BENCH, JODHPUR**

ORIGINAL APPLICATION NO. 238/2002

DATE OF DECISION: 11-1-20

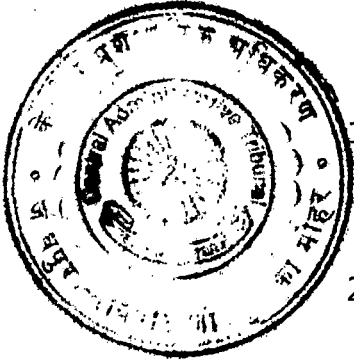
**HON'BLE MR. J. K. KAUSHIK, JUDICIAL MEMBER**

Om Prakash Sharma, S/o Shri Vijay Raj by caste Sharma working as Waterman in the Railway Mail Service Sub record Office, Bikaner resident of Behind Dak Bungalow near Ram Deo Chakki, Bikaner, (Rajasthan)

...Applicant.

(By Advocate Mr.M.K. Sharimali: Counsel for the applicant)

**Versus**



1. Union of India through Secretary, Government of India, M/o Communication, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Jaipur PIN 302 007
3. Post Master General, Western Region, Jodhpur
4. Superintendent Railway Mail Service 'ST' Division, Jodhpur
5. Sub Record Officer, Railway Mail Service, Bikaner.
6. Head Record Officer, Railway Mail Service, 'ST' Division Jodhpur.
7. Sh. Kasai Ram Meena 'D' Group Employee, under Head Record Officer, Railway Mail Service, 'ST' Division- Jodhpur.

...Respondents.

(By Advocate Mr.Vinit Mathur Counsel for respondents 1 to 6)

None present for respondent No. 7.

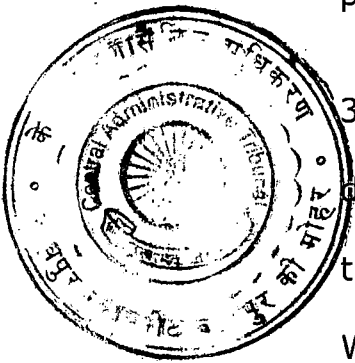
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J/K**ORDER****BY J K KAUSHIK, JUDICIAL MEMBER:**

Shri Om Prakash Sharma has undertaken the second journey to this Bench of Tribunal in the same matter and has, inter alia, prayed for setting aside impugned order dated 15.10.2001 with further directions to the respondents to regularise his services on the post of group D.

2. With the consent of the learned counsel for both the parties, I have heard the arguments for final disposal at the admission stage keeping in view the urgency of the matter and pleadings being complete. I have carefully considered the pleadings and records of the same.

3. Filtering out the unnecessary details, the material facts, as deduced from the pleadings adduced on behalf of the parties, are that the applicant came to initially engaged as Part time Casual Waterman on dated 27.6.80, in the office of Sub-Record Officer. He has been rendering part time service for about 6 hours a day. He filed an OA No. 202/2000 before this bench claiming similar reliefs that came to be disposed of vide order dated 6.7.2001. And the respondents considered the case of applicant as per the rules in force for full time employment but the same has been said to be not feasible since there are only two part time casual labour and the other part time casual labour is for Safaiwala who is employed for 7 hours a day and can not be combined due to heavy work.



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4. As regards the variances in the facts, the applicant has asserted that there has been vacant post of group D but the same had been filled in vide order dated 8.1.2003 (A/12) without considering the case of applicant. There has been repetition and the factum of continuous working for 23 years has been reaffirmed. The respondents have submitted that the post of group D has to be filled to the extent of 75% from amongst non-test category and remaining 25 % the order as per the rules in force i.e. form amongst (1) casual labour with TS, (2) Full time Casual labour, (3) Full time Casual labour of the division and (4) by part time casual labour. They have averred that as and when it is feasible the case of the applicant would be considered for full time casual labour.



5. Both the learned counsel of the parties have reiterated the facts and grounds enunciated in the respective pleadings as noticed above and there is no quarrel regarding the same. I have considered the rival submissions put forward by the learned Counsel for the parties. As far as the legal position is concerned, the part time causal labour finds place at <sup>4th</sup> ~~third~~ place in order of which the regularisation on the group D post is to be considered. It is not the case of the applicant that his case fell within the consideration zone but the same has in any way been ignored. It is also not his case that any of juniors has been regularised on the group D post. Thus, I do not find any illegality or arbitrariness with the action of the respondents in his non-regularisation on the group D post. His case can only be

considered against group D post after all the categories of person above his category are considered and he has no option but to wait for his turn. If that were so, the claim of applicant for regularisation is not well founded and cannot be sustained.

6. As regards the plea of applicant for converting the service of applicant into full time casual labour, no doubt the respondents have expressed their inability but the reason does seem to be convincing. It is clearly averred that there are two part time casual labour. One is applicant who is working for 6 hours a day. The other is working on safaiwala work for 7 hours and the reason for non-clubbing into full time is that there is heavy work for safaiwala. As per the norms of working, for full time duty 8 hours with one hour break is required. In other words the effective hours for full time casual labour is 7 hours for which sufficient work rather heavy work is there. In that case, creation of, at least, one post may be justified. After all the applicant has worked for a long period of 23 years, may be on part time for 6 hours a day, and his case would have caused some favourable sensation but the position is otherwise. The reply of the respondents conceals more that what it reveals in as much as in the earlier OA it was said that the case of the applicant was referred to the CPMG Rajasthan. The stand that has been adduced in the present case was very much available earlier and had they disclosed the same he would have not been compelled to file another OA.



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7. However, I do not find any justification as to once a post of EDMM became vacant why the case of the applicant was not considered for appointment on that vacant post. The post of EDMM admittedly became vacant as per communication-dated 8.1.2003 (A/12) which was much later then the order of this bench of the Tribunal on dated 6.7.2001 (A/7). DG Posts vide letter dated 6.6.88 under instruction 28 in chapter Method of Recruitment Postal GDS, provided that casual labourers, whether full time or part time, who are willing to be appointed to ED vacancies may be given preference in the matter of recruitment to ED Posts, provided they fulfill all the conditions and have put in a minimum service of one year. It is expected that the respondents shall be careful in future and shall strictly adhere to the rules in force and consider the case of applicant keeping in view his long service of 23 years.

8. In the circumspect of the aforesaid discussion, the Original Application is allowed in part and the respondents are directed to explore the feasibility of having one full time casual labour job as per aforesaid observations and consider the case of applicant for converting him into full time causal labour/or for regularisation as expeditiously as possible. However, in the facts and circumstances of this case, the parties are directed to bear their respective costs.



(J.K. Kaushik)

**Judicial Member.**

Jsv.

Received copy

*(Signature)*  
20/11/05

R1 copy  
13/1/03 -

Part H and M destroyed  
in my presence on 08/01/2014  
under the supervision of  
section officer ( ) as per  
order dated 18/12/2013

*(Signature)*  
Section officer (Record)