

I/B

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

ORIGINAL APPLICATION NO. 146/2002

DATE OF DECISION: 22.07.2003

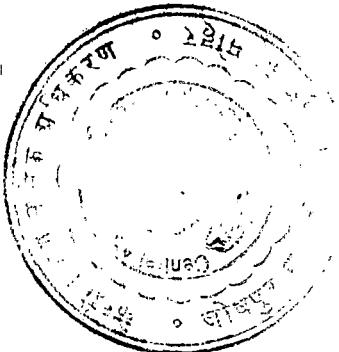
Gouri Shankar s/o Shri Mala Ram aged about 40 years, Peon, Office of Garrison Engineer, Shri Ganganagar, resident of MES Colony, Shri Ganganagar.

....APPLICANT.

V E R S U S

1. Union of India, through the Secretary to Government, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Chief Engineer, Western Command, Chandimandir.
3. Chief Engineer, Bhatinda Zone, MES, Bhatinda.
4. Commander Works Engineer, Sri Ganganagar.
5. Garrison Engineer, MES, Sri Ganganagar.

.....RESPONDENTS.



Mr. Vijay Mehta : Counsel for the applicant.

Mr. S.K. Vyas : Counsel for the respondents.

CORAM:

**The Hon'ble Mr. Justice G.L. Gupta , Vice Chairman
The Hon'ble Mr. R.K. Upadhyaya, Administrative Member**

O R D E R

PER MR. JUSTICE G.L. GUPTA:

The applicant was appointed on the post of Peon under the Respondent No. 5 on 10.10.1983. There is a provision of promotion from the post of Peon to the post of Record Keeper under the Rules. The eligibility conditions are that a peon has put in 9 years service and that he should have passed 8th standard. It is further necessary that he passes the departmental test. The

applicant fulfilled the eligibility criteria as he had passed the required trade test on 14.12.1987. In the year 1988 he was not given promotion to the post of Record Keeper on the ground that he had not completed 9 years of service. The applicant made a representation to the authorities to give him promotion on the post of Record Keeper. Vide impugned letter dated 06.02.2002 (Annexure A/1) the applicant was informed that he would be promoted on the turn of his seniority. The applicant calls in question this order on the ground that the order is ex-facie illegal and the action of the respondents is arbitrary.

2. In the counter, the respondents admit that the applicant is eligible to get promotion to the post of Record Keeper. It is, however, stated that the promotion of the applicant is to be considered on the occurrence of requisite number of vacancies.

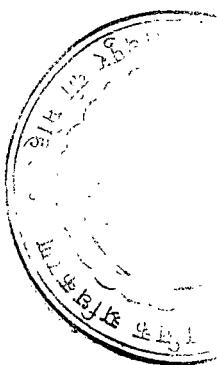
3. We have heard the learned counsel for the parties and perused the documents placed on record.

4. As already stated the respondents have not disputed this fact that the applicant is eligible to be promoted to the post of Record Keeper. It is not stated in categorical terms that vacancy of Record Keeper is not available. Only a vague averment has been made that the promotion of the applicant to the post of Record Keeper shall be considered on the occurrence of requisite number of vacancies in the said cadre. On asking specific question to the learned counsel for the respondents that a vacancy in the cadre of Record Keeper is available or not, he was not in a position to say



anything. His reply was that the name of the applicant shall be considered as per his seniority on the occurrence of requisite number of vacancies. For promotion of one person only one vacancy is required. It is not the case for the respondents in the reply that vacancy does not exist. Therefore, it is presumed that there exists a vacancy in the cadre of Record Keepers and the applicant's case can be considered.

5. Consequently, it is directed that the respondents shall consider the case of the applicant for promotion to the post of Record Keeper. If he is found fit for promotion, he shall be promoted on the post with all consequential benefits. This exercise shall be completed within a period of three ^{months or} from the date of communication of this order. The Original Application stands disposed of accordingly. No order as to costs.



Ch. B. Upadhyaya
(R. K. UPADHYAYA)
MEMBER (A)

G. L. Gupta
(G. L. GUPTA)
VICE-CHAIRMAN

SVS

W. H. Johnson
24/3/09

Part II and III destroyed
in my presence on 24.3.09
under the supervision of
Section Officer (J) as per
order dated 13/12/09

Section Officer (Record)

R. M. J.
24/3/09