
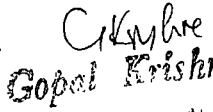

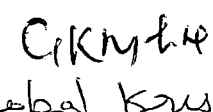


**In The Central Administrative Tribunal,
Jaipur Bench, Jaipur**

OA./TA/MP. No...../199

Versus.....

Date of Order	Orders
<p><u>12-4-94</u></p>	<p align="center">OA 953/92</p> <p>Mr. R.N. Mathur - Counsel for the applicant Mr. M. Rafiq - Counsel for the respondent</p> <p>The Counsel for the respondent submits that he wants to produce records to show that there is a unified Cadre of persons and that there is only one post in that Cadre. May be fixed for hearing on 19-4-94.</p> <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;">  (O. P. Sharma) Administrative Member </div> <div style="text-align: center;">  Gopal Krishna Member (Judicial) </div> </div> <div style="text-align: center; margin-top: 20px;"> <p><u>19/4/94</u></p> <p>DO NOT FILE FOR H... 22/4/94 B.O. COURT MASTER</p> </div>
<p><u>22-4-94</u></p>	<p>Mr. R.N. Mathur - Counsel for the applicant Mr. Mohd. Rafiq - Counsel for the respondent</p> <p>Heard. The OA is disposed of by a separate order, which has been pronounced in the open Court.</p> <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;">  (O.P. Sharma) member (A) </div> <div style="text-align: center;">  (Gopal Krishna) Member (J) </div> </div>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

OA No. 953/92 : Date of order 22.4.94

Prem Narain Sharma : Applicant

V/s

Union of India & Others : Respondents

Mr. R.N. Mathur : Counsel for the applicant

Mr. Mohd. Rafiq : Counsel for the respondents

CORAM

HON'BLE MR. GOPAL KRISHNA, MEMBER (J)

HON'BLE MR. O.P. SHARMA, MEMBER (A)

AS PER HON'BLE MR. O.P. SHARMA, MEMBER (A)

Shri Prem Narain Sharma has filed this application u/s 19 of the Administrative Tribunals Act, 1985, wherein he has prayed that the respondents may be directed not to fill the post of Peon by appointing a person of any particular caste and that order Annexure A-1 dated 5.8.92 may be quashed. He has further prayed that the applicant's services may be regularised on the post of Peon w.e.f. his initial appointment on 21.9.89 with all consequential benefits.

2. The applicant's case is that on his name being sponsored by the Employment Exchange, Jaipur, he had appeared for selection for the post of Peon in the Office of Controller of Explosives, Jaipur on 19.9.89 and on being selected, was appointed to the post of Peon vide the order dated 21.9.89 in pay scale 750-940, for a period of 90 days. The services of the applicant were extended by order dated 4.1.90. He continued on the said post with artificial breaks which were given after three months. The applicant's case was recommended for regularisation by the Controller of Explosive, Jaipur vide communication dated 1.7.92 addressed to Deputy Chief Controller of Explosive, Jaipur. However the Deputy Controller of Explosive, Agra issued order Annexure A-1 dated 5.8.92 in which it was stated that since this is the only post of Peon in the office of Controller of Explosive Jaipur, it is reserved for a Scheduled Caste candidate according to the post

point. Therefore, Controller of Explosive, Jaipur was advised that a Scheduled Caste Candidate may be appointed on the sponsorship of the Employment Exchange against the said post.

3. The applicant's case is that since he was selected on a regular basis and has been working for the last 4 years, he is eligible for being regularised on the post of Peon.


4. The respondents in their reply have stated that the appointment of the applicant was made purely on adhoc basis against the vacancy on which lien is held by a regularly appointed Group 'D' official at present facing disciplinary proceedings. The post is reserved for a Scheduled Caste Candidate. Since a regularly selected Scheduled Caste Candidate is proposed to be appointed, the applicant must make room for him, and he cannot claim regular appointment against the said post.

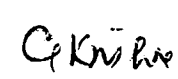
5. During the argument, the learned counsel for the applicant stated that in the office of Controller of Explosive, Jaipur, there was only one Group 'D' post to be filled up during the entire year and therefore, there could not be any reservation against that post. The applicant being a general category candidate was eligible for being considered for appointment against the said post. The learned counsel for the respondents had been asked to clarify whether there was a common cadre of Group 'D' employees in all offices which included the office of Controller of Explosive Jaipur or whether the Office of Controller of Explosive, Jaipur was a separate unit by itself having a separate cadre of group 'D' employees. The learned counsel for the respondents today produced before us a letter dated 18.4.94 addressed by the Controller of Explosive, Jaipur to the learned counsel for the respondents. This letter has been taken on record. The sum and substance of the contents of this letter is that the Office of Controller of Explosive, Jaipur is a separate unit having only one post of Group 'D' employee and it is reserved for a Scheduled Caste Candidate.

6. We have heard the learned counsel for the parties and have gone through the records.

7. It is the settled position in law now that if there is only one post in a cadre or unit, there cannot be any reservation against that. In this connection, reference may be made to the judgement of the Hon'ble Supreme Court in Dr. Chakradhar Paswan V/s State of Bihar AIR 1988 SC 959, in which it^h held that if there is one post, there cannot be any reservation against that. In the instant case, therefore, the appointment of the applicant to the post of Peon in the Office of Controller of Explosive cannot be denied on the ground that the post is reserved for a Scheduled Caste Candidate. Since it was not proposed by the respondents to remove the applicant from the said post on any other ground, his case shall be considered for regularisation by the respondents in accordance with the existing rules and procedure, within a period of four months from the date of receipt of a copy of this order.

8. The OA is disposed of accordingly, with no order as to costs.


(O.P. SHARMA)
Member (A)


(GOPAL KRISHNA)
Member (J)