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Date of Decision: 16.7.93.

OA 627/92
(OA 640/89)

HANUMAN GOSWAMI

... APPLICANT.

Vs.

UNION OF INDIA & ANR.

... RESPONDENTS.

CORAM:

HON. MR. JUSTICE D.L. MEHTA, VICE CHAIRMAN.
HON. MR. O.P. SHARMA, ADMINISTRATIVE MEMBER.

For the Applicant ... SRI M.S. GUPTA.

For the Respondents ... SRI V.S. GURJAR.

PER HON. MR. JUSTICE D.L. MEHTA, VICE CHAIRMAN.

Heard the learned counsel for the parties. The applicant had been working as a daily wage driver since 15.10.32. His services were terminated w.e.f. 3.2.35. As a compromise, effected before Assistant Labour Commissioner Kota, he was taken back in service on 10.9.35 and the period from 2.2.85 to 9.9.85 was treated as spent on duty.

2. Thereafter, two regular posts of driver were created. The respondents had invited applications for filling up the two posts of Driver vide Annexure A-1 dated 26.7.89. One post was for a candidate belong to a Scheduled Tribe, which was to be filled up through direct recruitment and the other post was to be filled up by promotion, but it was reserved for a candidate belonging to a Scheduled Caste. There was no unreserved vacancy available at the relevant time. The applicant is not a member of a Scheduled Tribe or a Scheduled Caste. The applicant has however prayed that he has been

performing the duties of Driver for about a period of 7 years and he has preferential right to be regularised on the newly created post and is entitled to get all the benefits of the post of a regular Driver.

3. Regularisation is not a right, and it depends upon the availability of vacancy against which an employee may be regularised. He had no right to be regularised on the post which is reserved for Scheduled Caste/Tribe candidate.

4. In any case, the applicant has already been regularised in the year 1991. The OA is without merit and it does not survive now in view of the fact that the applicant has already been regularised. It is dismissed accordingly, with no order as to costs.

(O.P. SHANMA)
MEMBER (A)

(D. S. SHANMA)
VICE CHAIRMAN