

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 3rd August, 2001

OA No.258/97

Virendra Singh Rathore s/o Shri Moti Singh at present working as Junior Technical Assistant (Photo), GSI, Western Region, Jaipur

..Applicant

Versus

1. Union of India through the Secretary to the Govt. of India, Ministry of Mines, Shastri Bhawan, New Delhi.
2. The Director General, Govt. of India, 4, Chouranghee Lane, Calcutta.
3. The Deputy Director General, Geological Survey of India, Western Region, 15-16, Jhalana Doongari, Jaipur.

.. Respondents

Mr. Hemant Gupta, proxy counsel to Mr. Asgar Khan, counsel for the applicant.

Mr. D.K.Swamy, proxy counsel to Mr. Bhanwar Bagri, counsel for the respondents.

CORAM:

Hon'ble Mr. S.K.Agarwal, Judicial Member

Hon'ble Mr.A.P.Nagrath, Administrative Member

ORDER:

Per Hon'ble Mr. A.P.Nagrath, Administrative Member

The controversy involved in this case is whether in a cadre of single post, the same can be treated as reserved. The applicant, Virendra Singh, is a Junior Technical Assistant (Photo) [for short JTA (Photo)], and belongs to general category. In the seniority list of JTA he is the seniormost. A vacancy in the cadre of Senior Technical Assistant (Photo) [for short STA (Photo)] had arisen on promotion of Shri S.N.Jha. The post of STA is in the scale of Rs



1640-2900 and the sanctioned strength of the cadre is only one. The applicant apprehends that the Department is treating this post as reserved under the 40 point roster and that the Department is likely to abolish this single post of STA thereby depriving him of his promotional avenues. His plea is that the Departmental Promotion Committee has recommended his name, but the respondent No.1 is not deserving the vacancy and the applicant is not getting his due promotion. He has filed this OA with the prayer that respondents be directed to issue orders of his promotion w.e.f. the date the DPC selected the applicant, with all consequential benefits. His further prayer is that the respondents be directed not to fill up the single post by applying the reservation roster and further that they should not abolish the post of STA (Photo).

2. In so far as the issue relating to reservation is concerned, the same stands finally settled by the Apex Court in the case of Post Graduate Institute of Medical Education and Research, Chandigarh v. Faculty Association and ors., AIR 1998 SC 1767, decided by the Constitution Bench of Hon'ble the Supreme Court. It has been held that there cannot be any reservation in a single post cadre. As per the clear position of law as declared by Hon'ble the Supreme Court the post of STA (Photo) cannot be treated as reserved at any time even by rotation of roster. The respondents are thus required to treat this post only as unreserved at all times and take steps to fill up this post accordingly. The respondents in their reply, have stated that in view of the revised roster having been issued by the Department of Personnel and Training, 40 point roster is no more in existence and they have indicated that there is every likelihood of promotion of the applicant in case he is found fit by the DPC.

3. In so far as abolishing the post is concerned, the



respondents have taken a stand that it is a matter of policy of the Government and the applicant has no right to insist for retention/existence of the post. While we agree with this arguments of the respondents that deciding the strength of a cadre or need to continue any post lies within the domain of the Department, but the Department in such a situation has to act rationally. In case the need arises to curtail any post, the only reasonable/rational course of action is to abolish the post starting from the base grade so that no adverse repercussion is caused to the promotional prospects of those already in service. Once this principle is kept in view, the Department is within its right to decide the number of posts required in a cadre. In the instant case, there is no order of the Department abolishing any post which has been challenged before us by the applicant. On this matter, we are not inclined to issue any directions.

4. In view of the facts and circumstances of this case, the OA is disposed of with a direction to the respondents to treat the single post of STA (Photo) scale Rs. 1640-2900 as unreserved at all times and take steps to fill up the same accordingly. No order as to costs.

*Abu P*  
(A.P.NAGRATH)

Adm. Member

*S.K.A*  
(S.K.AGARWAL)

Judl. Member