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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1099/2002

Monday, this the 29th day of April, 2002

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri S.A.T. Rizvi, Member (A)

Bikramjit Singh
S/O Shri Karnail Singh Dhillon
R/O 122/1, Railway Colony
Minto Bridge, New Delhi
Working as Office Superintendent Grade-II
Mechanical Branch, Central Organisation for
Modernisation of Workshops
Tilak Bridge, New Delhi-2 ..Applicant
(By Advocate: Shri K.K. Patel)

Versus

1. Union of India
through - The General Manager
Northern Railway
Head Quarters Office, Baroda House
New Delhi
2. The Chief Administrative Officer (P)
Central Organization for Modernisation of
Workshops, Tilak Bridge, New Delhi
3. Senior Personnel Officer
Northern Railway
Head Quarters Office, Baroda House
New Delhi ..Respondents

O R D E R (ORAL)

Shri S.A.T. Rizvi:

Applicant was appointed as Senior Clerk in S&T Branch of Railways on 26.2.1981. Thereafter, in the same Department which is the applicant's parent Department, he was promoted as Head Clerk on regular basis on 1.1.1984. Meanwhile, on 11.2.1983, the applicant was transferred to the organization named COFMOW and in the same organization, he was promoted as Head Clerk on ad-hoc basis on 21.3.1983. Subsequent to his regularisation as Head Clerk in his parent Department, the applicant was promoted as Assistant Superintendent on ad-hoc basis in COFMOW on 15.9.1984. Thereafter, in the same

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organization (COFMOW), he was promoted as Office Superintendent Grade-I again on ad-hoc basis on 22.10.1985. The applicant's grievance arises from the respondents' notice dated 27.11.2001 (P-1) by which a twofold action has been taken against the applicant. It appears from the aforesaid impugned notice that by an order passed on 30.3.1989, the applicant was reverted from the post of Head Clerk to the post of Senior Clerk in his parent Department. Further, by the same order of 30.3.1989, the order promoting the applicant as Superintendent on ad-hoc basis w.e.f. 22.10.1985 also stood terminated. Consequently, the order dated 15.9.1984 by which the applicant was promoted as Assistant Superintendent on ad-hoc basis in COFMOW has been restored w.e.f. 30.3.1989.

2. The learned counsel appearing on behalf of the applicant submits that the impugned order dated 27.11.2001 has been passed by the respondents without giving a reasonable opportunity of hearing to the applicant and in view of this, the said order deserves to be set aside. In support of this plea, the learned counsel places reliance on Neelima Misra Versus Harinder Kaur Paintal & Ors. decided by the Supreme Court on 21.3.1990 reported in (1990) SCC 746. Paragraph 22 thereof which is relevant runs as under:-

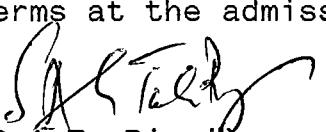
"22. An administrative order which involves civil consequences must be made consistently with the rule expressed in the Latin maxim audi alteram partem. It means that the decision maker should afford to any party to a dispute an opportunity to present his case. A large number of authorities are on this point and we will not travel over the field of authorities. What is now not in dispute is that the person concerned must be

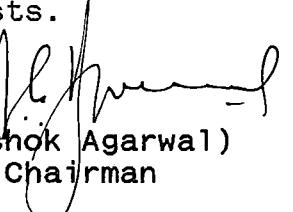
informed of the case against him and the evidence in support thereof and must be given a fair opportunity to meet the case before an adverse decision is taken.."

3. According to the learned counsel, if one has regard to the rule laid down by the Supreme Court as above, the impugned order could not have been passed without putting the applicant to notice. The learned counsel further submits that the applicant has not been able to file a formal representation in the matter before the respondents so far, but there can be no objection to the present OA being treated as a representation.

4. Having regard to the submissions made by the learned counsel and the aforesaid facts and circumstances, we are inclined to take the view that it will be in order and just to dispose of the present OA at this very stage even without issuing notices with a direction to the respondents to treat the present OA, a copy of which will be supplied to them, as a representation made on behalf of the applicant and consider the same and pass speaking and reasoned orders thereon expeditiously and in any event within a period of three months from the date of receipt of a copy of this order. We further direct that until the matter has been disposed of as above, the respondents ~~are~~ shall desist from effecting recovery from the pay of the applicant. We direct accordingly.

5. The present OA is disposed of in the aforesaid terms at the admission stage itself. No costs.


(S.A.T. Rizvi)
Member (A)


(Ashok Agarwal)
Chairman

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