

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.2612 OF 2002

New Delhi, this the 26th day of August, 2003

HON'BLE SHRI SHANKER RAJU, ADMINISTRATIVE MEMBER
HON'BLE SHRI R.K. UPADHYAYA, JUDICIAL MEMBER

Shri Attar Singh,
S/o Shri Sunehri Singh
Aged about 44 years,
R/o Village & Post Office: Dhoom Manikpur,
Dist: Ghaziabad, Uttar Pradesh,
(Working as L.D.C. Ward 45(2),
Commissioner of Income Tax, Delhi-XV,
New Delhi.)

....Applicant
(By Advocate : Shri R.N. Singh)

Versus

1. Chief Commissioner of Income Tax,
Central Revenue Building,
Indraprashtha Estate,
New Delhi-110002.
2. Commissioner of Income Tax, Delhi-XV,
Office of Chief Commissioner of Income Tax,
Mayur Bhawan,
New Delhi.
3. Central Board of Direct Taxes,
North Block,
New Delhi-110001.
4. Union of India,
Ministry of Finance,
Department of Revenue,
North Block,
New Delhi-110001.
(Through : the Secretary)

....Respondents
(By Advocate : Shri V.P. Uppal)

ORDER (ORAL)

SHRI SHANKER RAJU, JUDICIAL MEMBER :

Heard.

2. The applicant, who was a Notice Server, was considered for promotion by the Departmental Promotion Committee and was promoted as Lower Division Clerk. Subsequently, by an order dated 26.2.2002, the promotion of the applicant was annulled. It is not

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disputed that before reverting him to the post of Notice Server, no show-cause notice has been issued to the applicant. It is contended that principles of natural justice require reasonable opportunity before any adverse action could be taken against the applicant.

3. Shri V.P. Uppal, learned counsel of the respondents fairly contends that as no show-cause notice has been issued to the applicant, the applicant would be accorded an opportunity to show-cause against the aforesaid proposed action.

4. In this view of the matter, keeping in view the decision of the Apex Court in the case of D.K. Yadav Vs. J.M.A. Industries Ltd., (1993 SCC (L&S) 723), the action cannot be countenanced and is violative of principles of natural justice which deprived the applicant of his legitimate rights. Accordingly, OA is partly allowed. The impugned order is quashed and set aside with a direction to the respondents to restore the position of the applicant as LDC. It is made clear that the restoration of the applicant's position shall not preclude the respondents from issuing any show-cause notice after according a reasonable opportunity to the applicant, if so advised, and to take a final decision within a period of three months from the date of receipt of a copy of this order. In that event, the applicant would also be entitled to all consequential benefits.

Uppal

(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER

S. Raju

(SHANKER RAJU)
JUDICIAL MEMBER

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