

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

OA No. 2091/98

New Delhi, this the 24th day of December, 1998

HON'BLE SHRI T.N. BHAT, MEMBER (J)  
HON'BLE SHRI S.P.BISWAS, MEMBER (A)

In the matter of:

Jagan Lal s/o Sh. Itwari Lal,  
r/o 1067, Janta Flats,  
Nand Nagri,  
Delhi.

....Applicant

(By Shri A.K. Behra)

Vs.

Union of India through

1. The Secretary,  
Ministry of Home Affairs,  
Government of India,  
North Block, New Delhi.
2. The Registrar General,  
Government of India,  
Census Operations,  
Ministry of Home Affairs,  
2/A, Man Singh Road,  
New Delhi.

(By Advocate: Shri KCD Gangwani)

O R D E R

delivered by Hon'ble Shri T.N.Bhat, Member (J)

We have heard the learned counsel for the parties for final disposal of this OA at the admission stage itself.

? The applicant is aggrieved by the order dated 20th October, 1998 issued by respondent no. 2 by which an earlier adverse order against the applicant dated 09.12.1996 has been cancelled but at the same time another order dated 17.09.1998 restoring to the applicant the

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24.12.98.

status of Assistant Director has been withdrawn. By the aforesaid order dated 09.12.1996 the office order dated 27.01.1993 relating to the applicant's position in the seniority list was cancelled and it was further stated that the final seniority list of Investigators as on 01.09.1992 issued vide OM dated 22.10.1992 would stand and the seniority list issued subsequently would be treated as withdrawn.

3 The applicant had earlier also come to the Tribunal assailing the aforesaid order dated 09.12.1996 by which the seniority granted to the applicant earlier had been cancelled. This Bench of the Tribunal by the judgement dated 11.09.1998 quashed the aforesaid order dated 09.12.1996 and allowed the OA. The respondents were, however, given the liberty to put the applicant on notice, consider his representation/case and pass a speaking order alongwith reasons which shall be communicated to the applicant. The applicant states that only a few days after the passing of the judgement the respondents issued Office Memorandum dated 17.09.1998 asking the applicant to show cause why the seniority of one Shri H.K. Kaushal should not be restored after cancelling the order dated 27.01.1993. The applicant was granted time only till 25th September, 1998 for making representation. On receipt of the show cause notice the applicant represented that he may be given the copies of some documents so that he could file a detailed representation and reply to the show cause notice. However, without affording the applicant the opportunity to represent after receiving the aforesaid copies the



respondents issued the impugned order dated 20.10.1998 by which the order No. 31/6/91-RGI(AD.11) dated 17.09.1998 was withdrawn. A copy of the aforesaid order has been annexed to the OA and a perusal of the same reveals that by the aforesaid order the status of Assistant Director of Census Operations (Technical) was restored to the applicant in pursuance to the judgement of the Tribunal dated 11.09.1998. Thus, the grievance of the applicant is that without properly implementing the judgement of the Tribunal passed in OA No. 421/97 the respondents passed the adverse order against the applicant.

4. The respondents have contested the OA by filing a detailed reply in which the respondents have taken the plea that although the applicant was granted the opportunity to represent but he failed to avail of the opportunity and, instead, sought the copies of certain documents which he was not entitled to get. The respondents further seek to interpret the judgement of the Tribunal dated 11.09.1998 to mean that only the order dated 09.12.1996 was quashed and that there was no further direction to immediately restore the status of the applicant as Assistant Director without fulfilling the procedural requirements as per rules.

5. As already mentioned the applicant had successfully assailed the order dated 09.12.1996 by which his seniority was sought to be down-graded and the Tribunal quashed that order though at the same time granting liberty to the respondents to put the applicant on notice and only then decide the matter by means of a speaking order. We are convinced that the order dated

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20.10.1998 by which the earlier order dated 17.09.1998 restoring the applicant to the status of Assistant Director was withdrawn is not at all a speaking order nor does it give any reasons. We are also convinced that adequate opportunity was not granted to the applicant to make representation. The judgement of the Tribunal was passed on 11.09.1998 and almost immediately thereafter the respondents gave the show cause notice dated 17.09.1998 to the applicant asking him to make a representation within 8 days i.e. latest by 25.09.1998. The applicant made a request for copies of some documents. Although we agree with the contention of the respondents that the applicant was not entitled to any such documents, yet in our considered view the time for making representation granted to the applicant was not adequate. The respondents seem to have realised this position and that is why by the Office Memorandum dated 22.10.1998, as at Annexure A-16, they had granted the applicant further time to make a representation by 30.10.1998. But while doing so the impugned order dated 20.10.1998 was neither recalled nor cancelled. Therefore, the grievance of the applicant appears to be quite valid and reasonable.

6 For the foregoing reasons we are of the considered view that the direction of the Tribunal in OA 421/98 has not been carried out. We accordingly allow this OA and hereby quash the impugned order dated 20.10.1998 by which the order dated 17.09.1998 restoring the applicant to the status of the Assistant Director was cancelled and direct the respondents to afford adequate opportunity to the applicant for making representation and then take a decision by a reasoned and speaking order and

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communicate the same to the applicant. This shall be done within a period of two months from the date of receipt of a copy of this judgement by the respondents. Till that is done the present status of the applicant shall continue to be maintained. We also consider this to be a fit case for awarding of costs. Accordingly we direct that the applicant shall be entitled to receive Rs. 1000/- as costs from the respondents.

  
(S.P. Biwas)  
Member (A)

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( T.N. Bhat )  
Member (J)  
24.12.98.