

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 2564/98

New Delhi this the 6th day of October 1999

Hon'ble Mr. Justice V. Rajagopala Reddy, VC (J)
Hon'ble Mrs. Shanta Shastry, Member(A)

Mr. K.L. Sharma
S/o late Shri D.R. Sharma,
R/o AB-203, Shalimar Bagh,
Delhi-110052.

...Applicant

(By Advocate: Shri Anil Panwar)

Versus

1. Lt. Governor,
Govt. of N.C.T. of Delhi,
Raj Niwas Marg,
Delhi-110054.
2. Chief Secretary,
Govt. of N.C.T. of Delhi,
5, Sham Nath Marg,
Delhi-110054.
3. Principal Secretary (Finance),
Govt. of N.C.T. of Delhi,
5, Sham Nath Marg,
Delhi-110054.
4. Controller of Account,
Principal Accounts Office,
Mori Gate, Gokhale Marg,
Delhi-110054.

...Respondents

(By Advocate: Shri S.K. Gupta)

ORDER (Oral)

By Reddy, J.-

The applicant has been appointed by an order dated 29.10.96 as Junior Accounts Officer on adhoc basis in the office of Principal Accounts Officer, Govt. of N.C.T. of Delhi. He was appointed in the reservations made to the physically handicapped employees, since the date of appointment he has been working in the department, continuously. By the impugned order dated

On

23.12.98 the applicant was sought to be reverted on the ground that his appointment was due to misinterpretation of the instructions of the Govt. of India. It is contended by the learned counsel for the applicant that the impugned order was passed without affording him any opportunity of hearing. it is contended that the applicant should have been asked to explain before he was reverted. Learned counsel for respondents, however, refutes the contention and submits that as the applicant has been appointed on misinterpretation of the rules he was liable to the reverted.

2. We feel that there is sufficient force in the contention of the learned counsel for applicant. The applicant has been appointed in 1996 alongwith others. It was clearly stated that the applicant has been appointed ^lafter having qualified in the JAO (Civil) Examination. All the other employees who were appointed alongwith applicant, were also appointed in the quota reserved for physically handicapped. It is stated by the learned counsel for applicant that all the other persons who have been appointed, have been regularised but the applicant alone has been discriminated. It is now stated in the impugned order that the applicant was appointed due to misinterpretation of the instructions contained in O.M. dated 30.11.89 of Govt. of India Deptt. of Personnel & Training. It was also stated that the Govt. of India clarified that the reservation for physically handicapped person was applicable only to the identified post and the post of JAO in the Principal Accounts Service is a Group 'C' post which was not identified post to be held by physically handicapped person.

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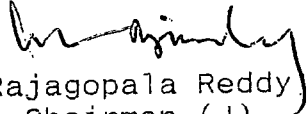
3. We are of the view that when the applicant is sought to be reverted after three years of his appointment was not as per rules. The respondents should have called upon the applicant to explain why he should not have been reverted. It is also necessary to consider in this case whether the interpretation made by the Govt. of India of the OM dated 30.11.89 is a proper interpretation or not. If a notice had been issued to the applicant, he would have also placed before the respondents his view in the matter justifying his appointment. 9

4. In the circumstances, in the interest of justice, we hold that the respondents ought to have issued notice before passing the impugned order of reversion. Since the order of reversion was not passed the impugned order is liable to be quashed.

5. It is, however, made clear that the respondent can take action against the applicant if so desired, after issuing a necessary notice to the applicant.

6. The O.A. is accordingly allowed. No costs.

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(Mrs. Shanta Shastry)
Member (A)


(V. Rajagopala Reddy)
Vice-Chairman (J)

cc.