

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

O.A. No. 1572/95

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New Delhi this the 12th Day of October, 1999

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE CHAIRMAN
HON'BLE MRS. SHANTA SHASTRY, MEMBER (A)

Kishore Srivastava,
S/o Shri R.N. Srivastava,
R/o 1483 Tulsi Niketan Gaziabad (UP)

Employed as Sub Editor (Hindi),
Directorate of Extension,
Ministry of Agriculture,
(Deptt. of Agriculture & Cooperation),
Krishi Vistar Bhawan,
New Delhi.

... Applicant

(By Advocate: Shri C.B. Pillai)

-Versus-

1. The Secretary to the Govt. of India,
Deptt. of Agriculture & Cooperation,
Ministry of Agriculture,
Krishi Bhawan,
New Delhi-110 001.

2. The Director of Administration,
Directorate of Extension,
Krishi Vistar Bhawan,
Dr. K.S. Krishnan Marg,
Pusa, New Delhi-110 012.

3. Smt. Kiran Bala,
Jr. Hindi Translator,
Directorate of Extension,
Krishi Vistar Bhawan,
Dr. K.S. Krishnan Marg,
Pusa, New Delhi. 11- -12.

... Respondents

(By Advocate: Mohd. S. Arif)

O R D E R (Oral)

By Reddy, J.

Heard the counsel for the applicant and the
respondents. Though notices were served, respondent
No. 3 has not made any appearance before us.

CAE

2. The applicant was working as Information Assistant in the Directorate of Extension, Ministry of Agriculture (Deptt. of Agriculture & Cooperation). 7

He was appointed as Sub-Editor (Hindi) by order dated 6.6.1995 to officiate as Sub-Editor (Hindi) General Central Service Group 'C' (non-gazetted) on promotion basis in the Directorate of Extension, Ministry of Agriculture. The applicant is now aggrieved by the order dated 23.8.1995 by which he was reverted to the post of Information Assistant (Hindi). It is the sole contention of the learned counsel for the applicant that the impugned order of reversion was passed without affording any opportunity before he was reverted. Hence, the impugned order is vitiated on account of want of notice. The learned counsel for the respondents had filed the counter affidavit. The learned counsel for the respondents submits that Respondent No. 3 who was the senior to the applicant, having been made representation to the appellate authority, the appellate authority considered the representation and on the basis of the order passed by the appellate authority, the applicant was reverted to the post and Respondent No. 3 was appointed in his place. It is further contended that as the applicant was junior, he was not entitled for promotion. Learned counsel also submits as the applicant having been promoted only to officiate in the post of Sub-Editor (Hindi), he can be reverted at any time without issuing notice.

CNA

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3. It is not in dispute that the applicant was not afforded any opportunity before the impugned order was passed. From the order of the appointment dated 6.6.1995, it is clear that the applicant was promoted to the post of Sub-Editor (Hindi) on promotion basis on the recommendations of DPC. The impugned order was passed reverting the applicant in view of the order passed by the appellate authority at the instance of Respondent No. 3. The applicant having been appointed on promotion, he acquires valuable right. This is not a case where he was promoted to officiate for certain time as a stop gap arrangement. It is also not the case of the respondent that the applicant was sought to be reverted on the ground that certain regularly appointed persons have been posted in his place. If any senior to the applicant has such grievance against the applicant and if any order is to be passed disturbing his promotion, it was just not proper and in the interest of fair play and justice to give him notice and heard him before he was sought to be reverted. It was held by the Supreme Court in the matter of Shridhar V. Nagar Palika, Jaunpur, AIR 1990 Supreme Court P.307 that "It is an elementary principle of natural justice that no person should be condemned without hearing. The order of appointment conferred a vested right in the appellant to hold the post of Tax Inspector, that right could not be taken away without affording opportunity of hearing to him. Any order passed in violation of principles of natural justice is rendered void. There is no dispute that the Commissioner's Order had been passed without affording any opportunity of hearing to the appellant,

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therefore the order was illegal and void. The High Court committed serious error in upholding the Commissioner's Order setting aside the appellant's appointment. In this view, Orders of the High Court and the Commissioner are not sustainable in law." Again in the matter of Shrawan Kumar Jha and Others Vs. Ram Sewak Sharma and Others, reported in 1991 Supp. (1) Supreme Court Cases 330, it was held "the holders of appointment orders entitled to opportunity of hearing before cancelling their appointments and that cancellation orders without complying with rules of natural justice liable to be set aside".

4. In view of the above, it was incumbent on Respondent Nos. 1 & 2 to have issued ~~pre-decisional~~ opportunity to the applicant. In the absence of such notice, the impugned order has to be set aside.

5. The learned counsel for the Respondent Nos. 1 & 2 submits that subsequent to the filing of the OA, the applicant was offered the post of Translator w.e.f. 23.8.1995 and he has accepted the same. The learned counsel for the applicant, however, submits that the said post was inferior to that of Sub-Editor (Hindi) and hence the acceptance of the said post cannot be a ground to non suit the applicant in the present OA. We agree, since the post of Translator was offered subsequent to the filing of the OA it cannot be a ground to deny the claim of the applicant.

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6. The impugned order is quashed and the O.A. is allowed. It is open to the respondents to issue notice if they wish and take proceedings in accordance with law. No cost.

h. J.
(Mrs. Shanta Shastry)
M(A)

V. Rajagopala Reddy
(V. Rajagopala Reddy)
VC (J)

Mittal