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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No.1144/94.

New Delhi, this the 5th day of September 1994.

HON'BLE SHRI J.P.SHARMA MEMBER (J)

HON'BLE SHRI P.T.THIRUVENGADAM MEMBER (A)

1. Shri RR Yadav
s/o Shri Sardar Singh
Section IT-J, CBDT,
Deptt. of Revenue,
M/o Finance, New Delhi.
2. Shri Ramesh Chand
s/o Shri Khalalu Ram
Section IT-Investigation-II,
CBDT, Deptt. of Revenue,
M/O Finance, New Delhi.
3. Shri VK Kapoor,
s/o Shri Onkar Nath Kapoor
Section-IT-A-II,
CBDT, Deptt. of Revenue,
M/O Finance, New Delhi. ..Applicants

(By Advocate Shri RV Sinha)

Vs.

1. Union of India,
Ministry of Finance,
Deptt. of Revenue,
North Block, New Delhi.
through Secretary (Revenue).
 2. Central Board of Direct Taxes,
Ministry of Finance,
Deptt. of Revenue, New Delhi. ..Respondents.
- (By Shri VP Upval, Advocate)

ORDER

HON'BLE SHRI P.T.THIRUVENGADAM MEMBER (A)

The three applicants in this O.A. are functioning as Upper Division Clerks (UDC) in the office of respondent No.2. They are posted on deputation posts in the same office against ex-cadre posts of Assistant (Technical) in the scale of Rs.1640-2900 and they took over this post on 20-1-1993, 19-1-93 and 9-10-91, respectively. The deputation was for a period of 3 years but before any of them completed 3 years, vide impugned orders dated 20-1-1994 (An.42 to O.A) the applicants were reverted to the post

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of U.D.C. This O.A has been filed for a declaration that the impugned order is illegal and for a declaration that the applicants are entitled for continued payment as Assistant (Technical) till they complete the tenure of 3 years on deputation and also for directions to reinstate them as Assistant (Technical).

2. The ld. counsel for the applicants referred to the initial orders of deputation which mentions the deputation of 3 years. Hence repatriating them before three years and that too without a show cause notice is illegal. It was also stressed that the order of reversion is non-speaking and a number of regular Assistants are continuing to work in the scale of Rs.1640-2900.

3. It is the case of the respondents that the posts of Assistant (Technical) were in the scale of Rs.425-800 prior to the introduction of the Fourth Pay Commission's scales and the corresponding revised pay scale was only Rs.1400-2600. Erroneously the scale of Rs.1640-2900 was allowed without consulting the appropriate authorities. It was decided by the Deptt. of Expenditure, Ministry of Finance, on 20-1-1994 that these posts should not have been sanctioned in the pay scale of Rs.1640-2900 and accordingly the respondents were compelled to revert the applicants to the regular posts of UDC in the same department. The respondents have denied the ex-cadre posts of Assistant (Technical) being continued in the pay scale of Rs.1640-2900. It was further stated by the ld. counsel for the respondents that the posts of Assistant (Technical) are not being operated for the present.

4. Having heard both the counsels, we note that the operation of the posts of Assistant (Technical) in the higher scale of Rs.1640-2900 was without

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proper sanction as admitted by the respondents.

In the circumstances, the applicants cannot claim for continuing in this non-existing scale of Rs.1640-2900, as a matter of right. The non-issue of a show cause notice cannot be held against the respondents since no right had accrued to the applicants to continue in a post in a scale which was not just there.

5. Regarding the argument that regular Assistants are working in the scale of Rs.1640-2900, it is admitted that these posts are different from the posts of Assistant (Technical) which are ex-cadre posts.

6. As regards the argument that the order of repatriation/reversion is a non-speaking one, we wish that this order had mentioned the background to such action. However, the absence of such a mention cannot result in the order becoming illegal.

7. In the circumstances the only order that we can pass is to direct the respondents to post the applicants as Assistant (Technical) in the approved scale of Rs.1400-2600 in preference to others if the respondents decide to fill up these posts. Such priority should be given till the applicants complete a period of deputation of 3 years including the period they have already spent against the posts of Assistant (Technical). It is needless to add that any other requirements like vigilance clearance may be taken into account at the time of considering the applicants for further deputation.

8. The O.A. is disposed of with the above directions.
No costs.

P. J. Thiruvengadam

(P.T. THIRUVENGADAM)
Member (A)

J. P. Sharma

(J.P. SHARMA)
Member (J)