

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 931/94
New Delhi this the 5th day of August 1999

16

Hon'ble Mr. Justice V. Rajagopala Reddy, VC (J)
Hon'ble Mr. R.K. Ahooja, Member (A)

Shri Prem Chand Verma,
Work Sarkar, Grade-I,
S/o Shri Rama Nand Verma,
R/o H. No. WZ-228, Street No.6,
Sadh Nagar, Palam Colony,
New Delhi-110 045

...Applicant

(By Advocate: Shri A.K. Verma)

Versus

1. Union of India,
through its Secretary,
Ministry of Water Resources,
Shram Shakti Bhawan,
4th Floor, New Delhi.

6. Shri Raj Kishore
S/o Shiv Lal Singh
R/o Radhy Shan Park,
Parwan Road, Delhi-51

2. The Chairman,
Central Water Commission,
2nd Floor, Seva Bhawan,
Ramakrishna Puram,
New Delhi.

(By Advocate: Sh. Ashish Kalia)

3. The Chief Engineer (N)
Central Water Commission,
Seva Bhawan, R.K. Puram,
New Delhi.

4. The Superintending Engineer
(Upper Yamuna Circle)
Central Water Commission,
Room No. 10, 8th Floor,
Seva Bhawan,
R.K. Puram, New Delhi.

5. The Executive Engineer
(Upper Yamuna Division),
Central Water Commission,
Room No. 810 (NW),
Seva Bhawan, R.K. Puram,
New Delhi.

...Respondents

(By Advocate: None)

ORDER (Oral)

By Reddy, J.-

Heard the counsel for the applicant and counsel
for Respondent No.6. None appears for respondents 1 to
5. This case was heard yesterday and posted today for
arguments of the respondents.

VAA

17

2. The applicant was appointed as Work Sarkar under the work charged establishment in the Central Flood Forecasting Circle, Central Water Commission, New Delhi Grade-III. Subsequently, he was promoted to the Work Sarkar Grade-II on 23.7.84. The applicant was promoted on 25.6.90 on the recommendations of the Departmental Promotion Committee to the post of Work Sarkar Grade-I. He joined service on 11.7.90. However, he was reverted by an order dated 16.7.91 to the post of Grade-II. Aggrieved by the said order the applicant filed OA-2253/91 before the Tribunal contending that the order of reversion was passed without affording any opportunity of showing cause. The respondents in the above OA contended that the DPC held earlier promoting the applicant followed wrong procedure. Having heard the counsel and considering the facts, the OA was disposed of by an order dated 23.4.92 holding as follows:-

"We are of the view that annexure A-7 cannot be permitted to stand because reversion of an employee without departmental enquiry or without any show cause notice or without following the principles of natural justice is a punishment and no punishment can be imposed without following the principles of natural justice. Thus if annexure A-7 was to be passed by them they should have issued show cause notice and should have afforded an opportunity of being heard. As annexure A-7 contravenes the principles of natural justice, we quash the same. The applicant shall be deemed to have continued in the post of Work Sarkar Grade-I as if annexure A-7 has not passed".

VAB

19

3. The applicant submits that even after the above order of the Tribunal was passed, the respondents, without issuing any notice to him passed the impugned order again reverting the applicant to the post of Work Sarkar Grade-II with immediate effect.

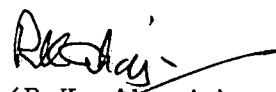
4. Learned counsel contends that the impugned order is in contravention of the decision of the Tribunal in the OA. ~~as~~ The Tribunal quashed the earlier order finding fault with the respondents that no notice was issued before the impugned order therein. Again, without issuing any notice the applicant was once again reverted. Respondents filed the counter. From the averments made in the counter of the respondents, we do not find anything to show that any notice was issued before passing the impugned order. The impugned order was passed without notice of hearing. The earlier OA was disposed of on the premise that the order of reversion was in the nature of penalty and it was, therefore, necessary upon the respondents to issue show cause notice. In the impugned order it was only stated that the applicant was reverted on the recommendations of the DPC. It does not show that any notice has been issued to the applicant. In the counter filed by respondents 1 to 5 dated 8.3.95 it was stated that the review DPC was conducted only to rectify the irregularities which crept inadvertently during the original DPC held on 20.6.90. Hence no notice need be given before the impugned order was passed. This assertion in our view is in the teeth of the judgment of the Tribunal in OA-2253/91. We are not going into the question whether the reversion of the applicant is valid

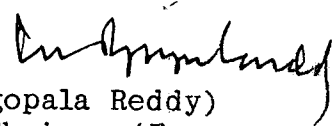
WAG

19

or not or whether the earlier DPC held in accordance with the procedure prescribed in the Rules or not. Holding that the impugned order is opposed to the decision in the earlier OA, we quash the impugned order.

5. It is made clear that if the respondents desire to hold a review DPC in order to rectify irregularities committed in the earlier DPC, if any, they may do so. But it is necessary to give the notice and afford the opportunity to the applicant before any action is taken against him. The impugned order of reversion is accordingly quashed. The respondents are directed to restore the applicant to his post of Work Sarkar Grade-I, with all consequential benefits. This is a fit case to grant costs. The OA is allowed, with the costs of Rs.1,000/- (Rupees one thousand only).


(R.K. Anooja)
Member (A)


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

cc.