

Central Administrative Tribunal  
Principal Bench

O.A.No.2406/2000

Hon'ble Sh. Govindan S. Tampi, Member(A)  
Hon'ble Shri Shanker Raju, Member(J)

New Delhi, this the 10th day of April, 2003

Krishan Lal Rana  
s/o Shri J.R.Rana  
r/o CA-60-A  
Shalimar Bagh  
Delhi - 110 048.  
and employed as  
Physical Education Teacher in  
Govt. CO-Ed. Middle School  
Shalimar Village  
Delhi. ... Applicant  
(By Advocate: None) Vs.

1. Union of India  
through The Secretary  
Ministry of Human Resource Development  
Department of Education  
Shastri Bhawan  
New Delhi - 110 001.
2. The Government of National  
Capital Territory of Delhi  
through the Chief Secretary  
5, Sham Nath Marg  
Delhi.
3. The Director of Education  
Government of National Capital  
Territory of Delhi  
Old Secretariat  
Delhi.
4. The Controller of Accounts  
The Principal Pay & Accounts Office  
Government of National Capital Territory  
of Delhi, Mori Gate  
Delhi. Respondents  
(By Advocate: Sh. Mohit Madan proxy of Ms. Avinash  
Ahlawat)

O R D E R(Oral)

By Shri Shanker Raju, M(J):

As none appeared for applicant even on second call, OA is disposed of in terms of Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987.

2. In this OA, applicant impugns respondents' order dated 9.8.1999 where they have sought to withdraw the order dated 30.9.1994 and corrigendum dated 7.10.1994 from retrospective effect as to prevent applicant from <sup>availing</sup> the consequential benefits of upgraded post of scale of Rs.440-750 w.e.f. 24.11.1981. He has sought quashment of the same and prayed for all consequential benefits.

3. One of the main ground of applicant to assail the impugned order is that before issuing the aforesaid impugned order and starting the recovery, which visited <sup>him</sup> with civil consequences, no opportunity to show cause has been afforded to applicant.

4. By an interim order dated 20.11.2000 recovery sought to be recovered from the applicant has been stayed.

5. In the reply, respondents in Para 6 contends that in the case of applicant, the order has been passed without show cause notice and crave leave of this Court to issue a show cause notice to applicant and to pass a reasoned order including a personal hearing.

6. However, Shri Mohit Madan, proxy counsel appearing on behalf of the counsel for respondents, Ms. Avinish Ahlawat while drawing our attention to an order passed in OA 2498/99 decided on 7.9.2001 in Mrs. Neelam Singh Raisi & Others v. Govt. of NCT of Delhi, contended that the Court has taken cognizance of the fact that letter issued on 27.3.1982 in the pay

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scale of PETs upgraded to Rs.440-750, and the orders were applicable w.e.f. 5.5.1981 with pre condition that incumbents should have rendered three years service in the lower grade of Rs.425-640. It is also stated that the Court has also taken cognizance of the fact that applicant was granted the benefits vide order dated 30.9.1994 which was subsequently cancelled by the impugned order.

7. In the conspectus of the above, it is stated that as applicant was not eligible as per the Rules, and was inadvertently was upgraded, he has no legal right to the same and recovery order cannot be found fault with.

8. We have carefully considered the pleadings on record and arguments of the learned proxy counsel for respondents. Without going into the merits of the case, as it is an admitted fact by the respondents that no show cause notice was given and have sought permission to serve the same, we are of the considered view that as, by the impugned order, applicant has been visited with civil consequences, and this has been arrived at without following the principles of natural justice, impugned order is quashed and set-aside. Respondents are directed to afford the applicant an opportunity to show cause including personal hearing and thereafter pass a detailed and speaking order in accordance with Rules and instructions, within a period of three months from the date of receipt of a copy of this order. With these directions, the OA is partly allowed. No costs.

S. Raju  
(Shanker Raju)  
Member(J)

(Govindan S. Tampi)  
Member(A)

/rao/