

Central Administrative Tribunal
Principal Bench, New Delhi.

O.A.No.1573/88

1st day of November, 1993.

Shri J.P. Sharma, Member (Judl.)

Shri B.K. Singh, Member (A)

1. C.P.W.D. Workers Union through General Secretary, N.N. Manna, s/o Shri M.P. Manna r/o C.P.W.D. Stores Bldg., Jor Bagh Lane, Aliganj, New Delhi-110003.
2. Shri Ram Jatan Singh, c/o Hot Mix Asphalt Plant Division, CPWD, I.P.Bhavan, N.Delhi.
3. Shri Habbu Chattri, C/o Hot Mix Asphalt Plant Division, CPWD, I.P.Bhavan, N.Delhi.

Applicants

By Advocate:

Versus

1. Union of India through Secretary, Miny. of Urban Development.
2. Director General (Works), C.P.W.D., New Delhi.
3. Suptdg. Engineer, Central Stores Circle, CPWD, American Ware House, Netaji Nagar, N.Delhi.
4. Executive Engineer, Hot Mix Asphalt Plant Dvn., C.P.W.D., I.P.Bhawan, New Delhi-110002.

Respondents

By the Advocate Shri P.H. Ramchandani

O R D E R (ORAL)

Shri J.P. Sharma

All the above named applicants have joined in this application under Section 19 of the Administrative Tribunals Act, 85 filed on 12.8.1988, aggrieved by the orders dated 13.4.88 and 20.6.88 passed by the Exe. Engineer, CPWD, New Delhi, whereby the applicants, on being declared surplus, were reduced in rank as well as pay-scale. Along with the Union two of the aggrieved applicants have also joined and they prayed for grant of relief that the aforesaid

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impugned orders be set aside and quashed with a direction to the respondents to continue to pay to the applicants their salary in accordance with the grade of Rs.1400-2300 and also be designated as Senior Operator (Special Class).

2. A notice was issued to the respondents on admission as well as interim relief. By the order dated 31.8.1988, the operation of the aforesaid impugned orders was stayed and status quo as of that day was ordered to be maintained regarding the payment of emoluments to the applicants. That interim order continued.

3. The respondents contested this application by filing a reply and opposed the grant of the reliefs, taking preliminary objections about the maintainability of the application without exhausting the departmental remedies to be complied with by the applicants under Section 20 of the Administrative Tribunals Act, 1985. It is admitted to the respondents that applicants 2 and 3 were working as Senior Operators at M.R.M. Project, Nepal. There was a settlement that the workers of that project, whereby it was agreed to that these workers were to be absorbed in equivalent posts in India and if equivalent posts are not available, the post of E&M Supdt. in the pre-revised pay-scale of Rs.425-700. The Department, however, could not carry out this agreement as there was no suitable equivalent category in the work charge establishment of CPWD in which the applicants could be absorbed. The respondents, therefore, unilaterally took a decision to absorb these workers in the lower posts of Senior Operator in the pre-revised pay-scale

of Rs.330-560. It is also admitted by the respondents that by an order issued on 12.5.1987, it was inadvertently not mentioned that the persons named in the aforesaid letter, including the applicants, were to be given the lower posts carrying the pay-scale of Rs.330-560. This omission resulted in fixing the pay of the applicants by the Superintending Engineer in the higher pre-revised pay-scale of Rs.425-640 (revised scale of Rs.1400-2300) in spite of the fact that such post did not exist in the work charge establishment of the CPWD. This mistake was subsequently detected and a corrigendum was issued on 7.1.1988 in this connection. In view of this corrigendum, revised orders were issued by the Superintending Engineer which have been impugned by the applicants in this case.

4. None appears for the applicants and we have heard the learned Sr. Counsel, Shri P.H. Ramchandani, for the respondents. Since this is an old matter, we have perused the pleadings of the parties and other documents annexed as Annexures and also took note of the rejoinder filed by the applicants. It is not disputed by the learned Sr. Counsel for the respondents that while issuing the revised order dated 7.1.1988, notice was not issued to the affected persons and this, obviously, is in violation of principles of natural justice. It cannot be said to be a correction of a mistake or a mere inadvertance inasmuch as the agreement arrived at with those working in M.R.M. Project, Nepal, was specific on the point of their absorption in CPWD in the scale of Rs.425-700 (revised to Rs.1400-2300). Any order adversely affecting the interests of any person after a lapse of years, cannot be passed to his disadvantage without hearing him. The principles of natural justice demand that a person should not be condemned

unheard.

5. The applicants, therefore, have made out a case that the impugned order cannot be sustained and only on this point, we are convinced that the impugned order cannot be allowed to stand. In fact, the impugned orders have already been stayed by an interim direction issued by the Tribunal, as stated in the earlier part of the order.

6. The application, therefore, is allowed and the impugned orders are set aside and quashed and the respondents are directed to continue to pay to the applicants in the revised pay-scale of Rs.1400-2300, giving them the same designation or equivalent on the basis of the agreement arrived at of absorbing these M.R.M. Project workers in the work-charge establishment of the C.P.W.D. The applicants shall also be entitled to all consequential benefits of increments and other allowances. However, the parties are left to bear their own costs.


(B.K. Singh)
Member(A)


(J.P. Sharma)
Member(J)