

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

(10)

NEW DELHI THIS THE 30TH DAY OF NOVEMBER, 1994

MR.JUSTICE S.K.DHAON, VICE-CHAIRMAN(J)
MR.B.K.SINGH, MEMBER(A)

OA No.1710/90

Shri Om Parkash Ruhela
S/o Shri Sundu Ram
R/o 1/96 A, Modern Shahdara
Gali No.23, Loni Road
(Ram Nagar) Shahdara, Delhi.

APPLICANT

BY ADVOCATE SHRI S.K.BISARIA
WITH SHRI SARVESH BISARIA, ADVOCATE.

VS

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

2. Chairman
Central Water Commission
Sewa Bhawan
R.K.Puram
New Delhi.

RESPONDENTS

BY ADVOCATE SHRI K.L.BHANDULA

OA No.2731/90

Shri Bhim Singh
S/o Shri Lal Chand
R/o Village & Post Office
Dundaheda
Distt.Gurgaon

APPLICANT

BY ADVOCATE SHRI P.L.MIMROTH.

VS.

1. Union of India through
Secretary to the Ministry
of Water Resources,
Govt.of India,
Sharam Shakti Bhawan
Rafi Marg,
New Delhi.

2. Chairman
Central Water Commission
Sewa Bhawan
R.K.Puram
New Delhi-110068

3. The Director(Admn.)
Central Water Commission,
Sewa Bhawan
R.K.Puram
New Delhi-110066

4. Shri O.P.Ruhela, PIV/MS.
Stastical Directorate,
Central Water Commission
C.S.M.R.S.Bld., Hauz Khas
New Delhi.

RESPONDENTS

RESPONDENTS 1 TO 3 BY
ADVOCATE SHRI K.L.BHANDULA

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Petitioner

Sh Om Parkash Ruhela ...

By Advocate Sh.S.K.Bisaria vs.
1. Shri V.B.Patel

Chairman
Central Water Commission
Sewa Bhawan
R.K.Puram
New Delhi.

2. Shri B.Bhadu
Director(Administration)
Central Water Commission
Sewa Bhawan
R.K.Puram
New Delhi.

Respondents

BY ADVOCATE SHRI K.L.BHANDULA

ORDER(ORAL)

JUSTICE S.K.DHAON:

OA No.1710/90 and OA No.2731/90 are inter-related. CCP No.179/90 arises out of an interim order passed in OA No.1710/90. The three have been heard together. Therefore, they are being disposed of by a common judgement.

2. The parties are agreed that there was a single solitary post of Machine Supervisor and that was a promotional post. The feeder post was of Punch -cum- Verifier(PCV).

3. In the year 1972, one Shri Bhatnagar was appointed to the solitary post of Machine Supervisor and he continued to hold that post till some time in November, 1988. He proceeded on deputation to the Cabinet Secretariat. On 24.11.1988, by an Office Order, Shri O.P.Ruhela (applicant in OA No.1710/90) was promoted to the grade of Machine Supervisor on "regular basis" in the vacancy of Shri U.S.Bhatnager, proceeded on deputation to Cabinet Secretariat, with immediate effect". This Officer Order also recited that Shri Ruhela had been appointed on the basis of the recommendations of the Departmental Promotion Committee, Group 'C', Non-gazetted, Non-ministerial. On 13.8.1990 another Office Order

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was issued whereby Shri Bhim Singh (applicant in OA No.2731/90) was appointed as a regular Machine Supervisor on notional basis with effect from 24.11.1988 and on actual basis with effect from the date of his taking over charge. Shri Bhim Singh too was appointed on the basis of the recommendations of the review Departmental Promotion Committee. It is clarified in the said Office Order that upon the repatriation of Sh.U.S.Bhatnagar, who was on deputation with the Cabinet Secretariat to the Central Water Commission, Shri Bhim Singh will stand reverted as PCV. It is also stated in that Office Order that Shri Ruhela was / reverted to his regular post of PCV from the date Shri Bhim Singh took over charge as Machine Supervisor. It was / clarified that the said Office Order modified the earlier Office Order dated 24.11.1988 issued in the case of Shri Ruhela.

4. Shri Ruhela felt aggrieved by his reversion by the Office Order dated 13.8.1990 and, therefore, he came to this Tribunal by means of OA No.1710/90. In that OA, on 24.8.1990, an interim order was passed to the effect that the respondents were directed not to give effect to the order of reversion dated 13.8.1990. The said order continues to operate even now.

5. In the Contempt Petition, the grievance is that the aforementioned interim order dated 24.8.1990/ for some time was not given full effect in so far as Shri Ruhela was not given a posting as a Machine Supervisor but he was asked to perform some other duties although there was no change in his emoluments. It is admitted that later on, by an order dated 21.12.1990, Shri Ruhela was re-appointed to officiate as a Machine Supervisor. That order was

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apparently passed in order to give effect to the said interim order passed by this Tribunal.

Consequently, Shri Bhim Singh was reverted to his original post of PCV and he was paid the same emoluments as he was drawing as a Machine Supervisor.

6. Shri Bhim Singh felt aggrieved by the aforesaid order dated 21.12.1990 and, therefore, he came to this Tribunal by means of OA No.2731/90. From a perusal of the record of the said OA, we find that no interim order was issued by this Tribunal in the case of Shri Bhim Singh.

7. We may straightway deal with the grievance of Shri Bhim Singh (applicant in OA No.2731/90). The impugned order dated 21.12.1990 was clearly passed in pursuance of the interim orders passed by this Tribunal in the OA preferred by Shri Ruhela. The respondents were legally bound to carry out the directions of this Tribunal. The remedy, if any, of Shri Bhim Singh was to make an application to this Tribunal for either recalling the interim orders or for modifying the same. We have already indicated that the interim order passed in the case of Shri Ruhela continues to operate even now. In these circumstances, we are unable to discern any illegality in the order dated 21.12.1990.

8. Coming back to the case of Shri Ruhela, we may again read the order of his appointment. It is implicit in the Office Order dated 24.11.1988 that he had been appointed on a regular basis and his appointment was to enure till either Sh. Bhatnagar came back to his parent department from deputation or he was absorbed in the Cabinet Secretariat. The learned counsel for the respondents, Shri K.L.Bhandula

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has stated at the Bar that Shri Bhatnagar was finally absorbed in the Cabinet Secretariat on 14.10.1992. Thus, it is clear that the question of Shri Bhatnagar being repatriated to his parent department did not arise. It necessarily follows that the order dated 13.8.1990 reverting Shri Ruhela to his original post of PCV was illegal. We are saying so because there is nothing on record to suggest that Shri Ruhela was reverted on any ground of misconduct or inefficiency. On the contrary, the order dated 13.8.1990 shows that he was reverted merely to accommodate Shri Bhim Singh.

9. In the counter-affidavit filed on behalf of the respondents, it is stated that the initial appointment of Shri Ruhela on 24.11.1988 was irregular and the order was passed mistakenly. Reliance is placed upon an Office Memorandum dated 29.4.1975 to show that, in fact, the post of Machine Supervisor should have been reserved for a Scheduled Caste.

10. We have already indicated that the appointment of Shri Ruhela was pre-maturely curtailed. Therefore, having regard to the facts and circumstances of the case and even assuming that Shri Ruhela had been appointed erroneously, he was entitled to at least an opportunity of a hearing. The order of reversion, therefore, is liable to be struck down on the short ground that the same was passed in violation of the principles of natural justice.

11. In BHIDE GIRLS EDUCATION SOCIETY VS. EDUCATION OFFICER, ZILA PARISHAD, NAGPUR & OTHERS ((1994) 26 ATC 89), it has been held by the Hon'ble Supreme Court that a single post cannot be reserved for Scheduled Caste candidates. It is based on the judgement of the Supreme Court in the case of

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DR.CHAKRADHAR PASWAN Vs.STATE OF BIHAR AND OTHERS ((1988) 2 SCC 214). We may note that the Office Memorandum dated 29.4.1975 is based on an earlier judgement of a Constitution Bench in the case of ARATI RAY CHOUDHURY Vs.UNION OF INDIA AND OTHERS ((1974) 1 SCC 87). This case had been considered by the Hon'ble Supreme Court in the case of Bhide Girls Education Society(supra).

12. We have read and re-read the contents of Office Memorandum dated 29.4.1975 and tentatively, we are of the opinion that it has no application to a solitary or isolated post.

13. According to the respondents themselves, Shri Bhatnagar was absorbed in the Cabinet Secretariat day on 14.10.1992 and it is on that/alone that a vacancy, if any, occurred in the grade of Machine Supervisor. Therefore, there was no justification whatsoever to pass the order dated 13.8.1990 reverting Shri Ruhela from the post of Machine Supervisor.

14. We have considered the Contempt Petition and we feel that, in the facts and circumstances of this case, it cannot be stated that the respondents wilfully disobeyed the interim order of this Tribunal. Therefore, the contempt proceedings cannot continue.

15. OA No.2731/90 is dismissed. OA No.1710/90 succeeds and is allowed. The order reverting Sh.Ruhela from the post of Mahine Supervisor is quashed. CCP No.179/00 is dismissed. The notices issued to the respondents are discharged.

16. There shall be no order as to costs in the three cases.

(B.K.SINGH)
MEMBER(A)
SNS

(S.K.DHAON)
VICE-CHAIRMAN(J)

Original Copy in OA 1710/90