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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH : NEW DELHI

O.A. NO.459/90

New Delhi this the 9th of June 1994

Hon'ble Member Mr. J.P. Sharma, Member (J)

Hon'ble Member Mr. B.K. Singh, Member (A)

Shri Gaj Raj Singh,  
S/o Shri Nand Lal,  
R/o WZ-114-A, Village Todapur,  
New Delhi.

... Applicant

By Advocate Shri S.K. Bisaria

Vs.

1. Lt. Governor of Delhi  
through  
Chief Secretary,  
Delhi Administration,  
Delhi.

2. The Director,  
Directorate of Social Welfare,  
Delhi Administration,  
Curzon Road, New Delhi.

... Respondents

O R D E R (Oral)

Hon'ble Member Mr. J.P. Sharma, Member (J)


The applicant was directly appointed to the post of Driver with the respondents, Directorate of Social Welfare, Delhi Administration. He was confirmed in post with effect from 18.7.1981. On 18.11.1984 an accident took place and a departmental enquiry was initiated against him. The Enquiry Officer submitted the report and the disciplinary authority by the order dated 4.8.1989 ordered the recovery of Rs. 10,612.50P and Rs. 21,254/- respectively from the pay and also reverted him to the post of Peon. The applicant assailed this order by filing this application on 14.3.1990. By the order dated 28.3.1990 an interim direction was issued to the respondents to implement the order of reversion and recovery dated 4.8.1989 and 15.2.1990. The respondents contested the application.

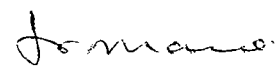
2. In the pre-lunch session, <sup>proxy</sup> counsel for Shri S.K.

Bisaria, Shri J.K. Nayyar prayed for adjournment on the ground that the main counsel is not available today. Since the Tribunal has short of work it was conveyed that the case will be taken up if the Bench could not keep itself busy with the work till 4.30 PM and that the matter will be taken up in the presence of other counsel. After lunch Ms. Avnish Ahlawat, learned counsel for the respondents appeared but the proxy counsel for Shri B.S. Bisaria is not present. The counsel for the respondents gave a statement at the Bar that she has no objection for setting aside the order of 4.8.1989 obviously because the order is not in conformity with the punishment to be imposed under CCS (CCA) Rules 1965. She has fairly conceded that the applicant was never appointed to the post of Peon, a Group 'D' post and therefore he cannot be reverted by way of imposition of punishment to a lower post to which he was never appointed. She also stated that the order under challenge itself mentions that the punishment warrants removal from service but on sympathetic consideration seeing the applicant's age and his family, the applicant is reverted to the post of Peon. Since the order by itself is not according to law it has to be quashed alongwith the order of recovery of certain amount from the salary of the applicant. However, this order is being passed not on merit but on the sole ground that the impugned order is illegal and the punishment imposed does not come within the purview of Sec. 11 CCS(CCA) Rules 1965.

3. The application, therefore, is partly allowed and the impugned order dated 4.8.1989 is quashed and set aside and the case is remitted to the disciplinary authority to pass orders according to law after giving

giving an opportunity to the applicant. In the circumstances the stay granted by the Tribunal by its order dated 20.3.1990 is vacated. Parties to bear their own costs.

  
(B.K. Singh)  
Member(A)

  
(J.P. Sharma)  
Member(J)

\*Mittal\*