

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

Date of Decision: 5.8.94.

O.A. No.819/90

VIMAL KUMAR AND KENDRA SINGH ... APPLICANTS.

Vs.

UNION OF INDIA & ORS. ... RESPONDENTS.

CORAM:

HON'BLE MR. JUSTICE D.L. MEHTA, VICE CHAIRMAN.

HON'BLE MR. B.K. SINGH, MEMBER (A).

For the Applicants ... SHRI B.S. MAINEE.

For the Respondents ... NONE.

PER HON'BLE MR. JUSTICE D.L. MEHTA, VICE CHAIRMAN.

Heard the learned counsel for the applicants. None is present on behalf of the respondents. The applicant has challenged the order Annexure A-1 dated 17.4.90, by which directions were given that both the applicants may be reverted to their substantive post of Khallasis.

2. Respondents have come with a case that the trade test was held in which the applicants were declared passed and in consequence thereof they were promoted in the year 1988. However, it was found by a superior authority that the then AEN/USFD committed irregularities. As such, trade tests were cancelled. In consequence of the cancellation it was considered that the promotions so made are irregular. As such, the order of promotion was recalled vide order Annexure A-1 dated 17.4.90. The learned counsel for the applicants submitted that there is a fundamental right that no-one shall be punished without being heard. The principles of natural justice are the backbone of the Constitution. As such, right created in favour of the applicants cannot be taken away by the respondents without giving them an opportunity of hearing. It is true that the applicants were promoted in consequence of the examinations held in 1988.

(2)

It is also true that the applicants worked for about one year and nine months and they have been reverted by the impugned order dated 17.4.90.

3. We have gone through the pleadings of the parties. The respondents have come with a case in para 4.11 that the promotions have been found irregular after investigation by the competent authority on account of the irregularities committed in the trade test. In fact the person who is guilty should be punished for committing the irregularity, if any. It was also the duty of the respondents to intimate the applicants about the irregularities, if any, before passing such order of punishment or reversion. In the facts and circumstances, we are of the opinion that an illegality has been committed by the respondents in passing the order Annexure A-1 dated 17.4.90.

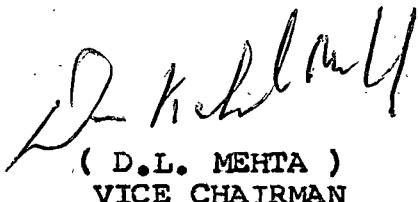
The order Annexure A-1 dated 17.4.90 is set aside. The applicants have worked for a pretty long time on a higher post and the interim order was also issued by this court on 4.5.90. It is very surprising that the respondents have come with a case that the applicants are performing the duties of the Khallasies w.e.f. 19.4.90 and they are continuing to perform the same duties. This may amount to not obeying the order of the court. Once the order has been kept in abeyance there is no question of implementation or non-implementation.

4. In the result, the order Annexure A-1 dated 17.4.90 reverting the applicants is quashed. The respondents shall be at liberty to pass fresh order after hearing the applicants, if necessary. They may consider the case of regularisation according to law or they can conduct the fresh test, if necessary, after hearing the applicants and can pass an appropriate order. Till then the applicants shall not be reverted. The applicants shall be entitled for all consequential benefits.

5. The OA is disposed of accordingly, with no order as to costs.



(B.K. SINGH)
MEMBER (A)



(D.L. MEHTA)
VICE CHAIRMAN