

Central Administrative Tribunal  
Principal Bench, New Delhi

(91)

O.A.No.398/2004

Wednesday, this the 17<sup>th</sup> day of November 2004

Hon'ble Shri Justice V. S. Aggarwal, Chairman  
Hon'ble Shri S. K. Naik, Member (A)

Shri Prem Chand Varma  
Senior Printing Officer  
University Grants Commission  
Bahadur Shah Zafar Marg  
New Delhi-2

..Applicant

(By Advocates: Shri VSR Krishna & Shri Vikas Varma)

Versus

1. The University Grants Commission  
Through its Chairman  
Bahadur Shah Zafar Marg  
New Delhi
2. The Director (Admn.)  
University Grants Commission  
Bahadur Shah Zafar Marg  
New Delhi

..Respondents

(By Advocate: Shri Amitesh Kumar)

ORDER (ORAL)

Justice V. S. Aggarwal

The applicant – Prem Chand Varma – seeks quashing of the order dated 9.12.2002 and to direct the respondents to give consequential benefits to him.

2. At the outset, we make it clear that though other controversies have been raised but it becomes unnecessary to go into the same because it was urged that the applicant had been promoted by a duly constituted Departmental Promotion Committee meeting. While withdrawing/canceling the order, no notice to show cause had been issued and secondly, the applicant was promoted on 27.3.2002 and the order has been withdrawn retrospectively ignoring that the applicant has served on a higher post during this period.
3. In the reply filed, the petition has been contested.

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4. The applicant had been promoted to the ex-cadre post on 27.3.2002. The copy of the order reads:-

"Shri P.C. Varma, working as Senior Printing Officer an ex-cadre post is hereby promoted to the ex-cadre post of Joint Director now designated as "Principal Publication Officer" in the scale of pay of Rs.14300-400-18,300 with effect from the date he assumes the charge of his new assignment.

He is requested to give his option for fixation of pay in terms of Rule 22 (1) a (i) of the fundamental rules within one month from the date of issue of this order. Option once exercised shall be final.

He should report for his duties as Principal Publication Officer to the Director (Admn.)"

5. Subsequently, the impugned order of 9.12.2002 had been passed, which reads:-

"In pursuance of the decision taken by the Commission at its meeting held on 25<sup>th</sup> September, 2002 vide Item No.7.01 (ii), it has been decided to withdraw the Office Order No.70/2002 dated 27<sup>th</sup> March, 2002 (No.F.25-1/2002 (Admn.IIA&B) with effect from 27<sup>th</sup> March, 2002 (FN). Consequently, Shri P.C. Verma will continue to hold the post of Senior Printing Officer in the scale of pay of Rs.12000-375-16500 w.e.f. 27<sup>th</sup> March, 2002."

6. These facts make it clear that the order passed on 27.3.2002 has been withdrawn retrospectively and further no notice to show cause has been issued to the applicant while withdrawing the same.

7. A similar controversy had arisen before this Tribunal in OA-3081/2003, which was decided on 3.8.2004 in the matter of Dr. (Mrs.) H.K. Chauhan v. The University Grant Commission & another, i.e., pertaining to the same respondents herein. Therein, a similar plea had been raised and the following findings had been arrived at:

"8. At this stage, we hasten to add that we are not dwelling into the merits of the controversy. If the earlier order is found valid, we are not going into other controversy of the subsequent order which had been so passed. This is for the reason that the principles of 'audi alteram partem' have made deep inroads into our jurisprudence. Where the civil rights of a person are being affected in normal circumstances, a notice to show cause is required to be given and thereafter, on

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consideration of the representation, if any, a proper order can be passed. In the present case, not only a notice to show cause has not been given but even the order has been passed retrospectively withdrawing the same, ignoring the fact which we have recorded above."

8. We find no reason to take a different view. Resultantly, we allow the present petition on the above-said technical ground and direct:

- a) The impugned order is quashed,
- b) The applicant would be entitled to the consequential benefits; and
- c) We make it clear that nothing said herein would be taken as any expression of opinion pertaining to other claims, nor restrain the respondents from taking necessary steps, if deemed appropriate, in accordance with law.

S. V. Naik  
( S. V. Naik )

Member (A)

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( V. S. Aggarwal )  
Chairman