

Central Administrative Tribunal, Principal Bench

Original Application No.848 of 2004

New Delhi, this the 14th day of May, 2004

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.A. Singh, Member(A)

Shri Rajender Prasad,
S/o Shri A.P. Nautiyal,
Aged 65, Suryakiran Apartments,
Vikaspuri, New Delhi- 18
... Applicant

(By Advocate: Shri R.V. Sinha)

: Versus

1. Union of India,
Ministry of Commerce,
Department of Commerce,
Udyog Bhawan, New Delhi-11
(Through: The Secretary)
2. The Directorate General of Supplies
& Disposals,
Ministry of Commerce,
Jeevan Tara Building,
5, Sansad Marg,
New Delhi-1
(Through: The Director General)
3. Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi-11
(Through: The Secretary) ... Respondents

(By Advocate: Shri D.S. Mahendru)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The applicant by virtue of the present application seeks quashing of the order reverting him.

The said order is dated 31.3.2004. It reads:

"A review of the panels for the post of Director (QA), JAG (IIS) drawn up by the DPC in its meetings held on 21.07.1997 and 01.06.1998 was necessitated due to change in the vacancy position and zone of consideration. The necessity arose in view of regularization of promotions of S/Shri S. Krishna and D.B. Jain to the post of Director against the panel drawn by the DPC on 28.04.1984, after due consultation with UPDC and DOPT.

VS Ag

2. In pursuance of the recommendations of the Review DPC held on 15.1.2004 name of Shri Rajendra Prasad stands eliminated from the panel of 1998-99. He is accordingly reverted to the post of Dy. Director, Senior Time Scale (OG) of IIS in the scale of pay of Rs.10000-325-15200 with effect from 31.03.2004 (A.N.)

3. He will continue to officiate as Dy. Director at DGS&D Hqrs. till further orders.

4. This issues with the approval of the Competent Authority."

2. Learned counsel for the applicant intended to urge other factors but we are not going into the same because it was pointed that the applicant had been appointed on regular basis to the post of Director (Quality Assurance) in the Department of Commerce, Directorate General of Supplies and Disposals. It is urged that no show cause notice was served while reverting him from the said post.

3. The application is being opposed.

4. We have heard the parties counsel.

5. During the course of submissions, learned counsel for the respondents had drawn our attention to the fact to indicate as to why and under what circumstances, the applicant had to be reverted. For purposes of the present petition, we make it clear that nothing said herein is an expression of opinion pertaining to the said controversy. This is for the reason that the contention raised is that principles of natural justice have been ignored.

MS Ag

6. The order of 1.6.99 indicates that the applicant was appointed on regular basis as Director. The said order reads:

"The President is pleased to appoint Shri Rajinder Prasad an officer belonging to the Senior Time Scale post of Deputy Director in the Indian Inspection Service, to the Junior Administrative Grade post of Director, of the Service in the Scale of pay of Rs.3700-125-4700-150-5000 (pre-revised), on a regular basis with effect from the date of assumption of charge, until further orders.

2. Shri Rajinder Prasad will assume charge of the post of Director at DQA, Ahmedabad against vacancy arisen on account of Shri Anil Gupta, Director, proceeding on deputation.

3. The above appointment is subject to the final outcome of the LPA's 67/83, 68/83 & 69/83 filed by the UOI and pending in the Hon'ble High Court of Delhi and Writ petition Nos. 35/83, 3001/83 filed in Hon'ble High Court of Mumbai and transferred to Delhi Court, O.A. No. 155/86 filed by Shri V.K. Sridhar in the Hon'ble CAT, Mumbai Bench, O.A. No. 935/88 filed by Shri A.K. Satwah in the Hon'ble CAT, Mumbai Bench, O.A. No. 291/95 filed by Shri D. Ramachandran in the Hon'ble CAT, Hyderabad Bench and O.A. No. 2001/97 filed by Shri G.K. Sinha, in Hon'ble CAT, Principal Bench, New Delhi and other petitions if any, pending in the High Courts/CAT relating to matters of seniority.

4. Shri Rajinder Prasad will be entitled to TA/DA, joining time, etc. as admissible under the rules."

7. Even if certain circumstances arose to which reference has been made in the reply filed by the respondents, in all fairness a notice to show cause should have been issued to the applicant since civil rights were being effected. We make it clear that is not always necessary that such a notice is issued of a longer duration. Even a short notice could be issued

MS Ag

keeping in view the peculiar facts.

8. When such a notice was not given before reverting the applicant who had been regularly appointed to the post of Director, we have no hesitation to conclude that the impugned order cannot be sustained.

9. Consequently, we quash the impugned order and direct that the respondents, if deemed appropriate, may give a show cause notice and act in accordance with law. O.A. is disposed of.


(S.A. Singh)

Member (A)


(V.S. Aggarwal)
Chairman

/dkm/