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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.874 OF 2004

New Delhi, this the 6th day of April, 2005

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Tara Singh,
S/o Shri Amar Singh,
R/o Qtr. No.B-4, Railway Colony,
Tughlakabad, New Delhi 110022.

.....Applicant.

(By Advocate : Shri M.K. Bhardwaj)

Versus

Union of India and others

through

1. The Secretary,
Ministry of Finance,
Banking Division,
Jeevan Deep Building,
Parliament Street, New Delhi.
2. The Presiding Officer,
Debt. Recovery Tribunal,
Delhi, 3rd Floor, Vikrant Towar,
Rajindra Place, New Delhi.
3. The Registrar/Secretary,
Debt. Recovery Tribunal,
Delhi, 3rd Floor, Vikrant Towar,
Rajindra Place, New Delhi.

.....Respondents.

(By Advocate : Mrs. Meenu Mainee)

O R D E R (ORAL)

Applicant impugns respondents' order dated 2.4.2004 deregularising his services and cancelling his regular appointment to the post of Peon.

2. The applicant as per procedure prevalent was appointed as casual labour on daily wages for a period of 89 days on 20.2.1988 and on 1.7.1999 on a vacant Group 'D' post, the applicant was appointed on ad hoc basis for

a period of 6 months in a defined pay scale until further order as per the terms and conditions of Debts Recovery Tribunal's letter 1.7.1999.

3. By an order dated 8.1.2001, applicant was appointed on regular basis by the competent authority and had continued as such. His appointment was also on regular basis with the approval of the competent authority dated 14.8.2003. Without affording an opportunity of show-cause, the action of the respondents to cancel his appointment amounts to violation of principles of natural justice, which is no more res integra, as the applicant appointment was cancelled and his services deregularised on the ground that his appointment was not as per the Recruitment Rules.

4. Learned counsel for the applicant contended that the appointment of the applicant was on regular post, after fulfilling the following criteria, as mentioned in Recruitment Rules, without affording an opportunity, the impugned order nullity in law.

5. On the other hand, Mrs. Meenu Mainee, learned counsel for the respondents vehemently opposed the contentions of the applicant and stated that while appointing the applicant, procedure prescribed in Recruitment Rules have not been followed. As such appointment is nullity in law.

6. I have carefully considered the rival contentions of the parties and perused the material placed on record.

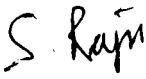
7. In an identical situation, the Apex Court in the case of **Jaswant Singh and Others** Vs. **State of M.P. and others**, (2002) 9 SCC 700, held as follows:-

“7. The appellants having been appointed pursuant to the order of the Panchayat and having been continued as LDC since February 1987, no order under sub-section (1) of Section 83 of the Adhiniyam could have been passed by the Collector without affording the opportunity of hearing to them. Admittedly, the opportunity of hearing has not been give. The impugned order of

cancellation, therefore, stands vitiated. We, therefore, set aside the order of the High Court as well as the order of cancellation passed by the Collector.”

8. In the light of the above, the impugned order passed by the respondents is in violation of the principle of audi alteram partem. As such the same cannot be resorted to without hearing the applicant.

9. In the result, OA succeeds and impugned order is set aside. Respondents are directed to forthwith restore applicant's appointment. Applicant would be entitled to all consequential benefits. However, if so advised, respondents shall be at liberty to take recourse in accordance with law. No costs.


(SHANKER RAJU)
MEMBER (J)

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