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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.2122/92

NEW DELHI THE 23RD DAY OF MARCH 1994.

HON'BLE MR.JUSTICE S.K.DHAON, VICE-CHAIRMAN(J)
HON'BLE MR.B.N.DHOUNDIYAL, MEMBER(A)

1. Shri Harbir Singh
S/o Sh. Adi Mal,
R/o Village & P.O. Sakoti Tanda
Main Bazar,
Distt. Meerut (U.P.)
 2. Shri Sukhbir Singh
S/o Shri Bakhtawar Singh
Village Kalanjari
P.O. Jani
Distt. Meerut (U.P)
- APPLICANTS

BY ADVOCATE SHRI N.S. BHATNAGAR.

Vs.

1. Union of India through
Secretary,
Ministry of Defence
South Block
New Delhi.
 2. Commander Works Engineers,
29-J, The Mall
Meerut Cantt.
 3. Engineer-in-Chief
Army Head Quarters
Kashmir House,
New Delhi-110 011.
- ...RESPONDENTS

NONE FOR THE RESPONDENTS.

ORDER(ORAL)

JUSTICE S.K.DHAON:

In pursuance of the directions given by this Tribunal in a joint OA preferred by the applicants(OA No.1175/88) decided on 10.8.1990, the respondents by separate but similar orders dated 24.5.1991 "appointed/reinstated", the applicants as MT Drivers Grade II with effect from 3.1.1987 on "regular/Ty Establishment of GEE/M Meerut" in the pay scale of Rs.950-20-11-1150-EB-25-1400 plus allowances as admissible to the Central Government employees from time to time.

2. It appears from a perusal of the said orders that the same were passed
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on the basis of a sanction given by the Engineer in Chief's branch New Delhi under Letter No. 09237/2676/EIC(4) dated 23.5.1991.

3. On 29.2.1992, by separate but similar orders passed by the Commander Works Engineers, the applicants were informed that they were reinstated in service as MT Drivers Grade II on Muster Roll on daily wages with effect from 3.1.1987 in compliance with the judgement of this Tribunal dated 10.8.1990. It is also stated that the applicants were appointed on the same terms and conditions of service to which they were entitled to when their services were terminated. In para 2 of the orders, it is recited that the same supersede the orders dated 24.5.1991. These orders are being impugned in the present OA.

4. This Tribunal while passing its order on 10.8.1990 had noted the contentions of the applicants that they were Ex-Servicemen, they were engaged against the quota reserved for them in civilian posts, they fulfilled the relevant recruitment rules for appointment as Drivers and after terminating their services, the respondents had resorted to fresh recruitment on ulterior considerations. The Tribunal had also noted the contents of the counter-affidavit filed on behalf of the respondents that the applicants had been engaged on muster roll on daily wages not exceeding 25 days at a time, that no vacancy of MT Driver had been reserved for Ex-Servicemen, and the mere fact that they held the heavy duty licence was not sufficient to enable them to get employment. This Tribunal, in para 7 of its judgement, gave ultimate directions, which

as material, are:

"We, therefore, set aside and quash the same. The respondents are directed to reinstate them in service as MT Drivers w.e.f. 3.1.87 within a period of 3 months from the date of communication of this order. They will also be entitled to arrears of pay and allowances and other consequential benefits."

5. In their counter-affidavit, the respondents have admitted that they challenged the order of this Tribunal dated 10.8.1990 by means of a Special Leave Petition in the Supreme Court and that petition has been dismissed.

6. It appears that Shri Harbir Singh, one of the applicants before us, came to this Tribunal by means of CCP No.21/91 complaining therein that the directions given by this Tribunal in OA No.1175/88 had not been carried out. This CCP was disposed of by this Tribunal by observing that there had been substantial compliance of the judgement of the Tribunal dated 10.8.1990 in the sense that the applicant had since been reinstated in service. As regards, the arrears of salary, the Tribunal noted the fact that the respondents had tendered unconditional apology for the delay on their part. This Tribunal thereafter passed the order that the arrears shall be paid to the applicant alongwith interest @ 12% P.A..

7. In the counter-affidavit filed on behalf of the respondents, it is asserted that the aforesaid two orders dated 24.5.1991 appointing/reinstating the applicants as MT Drivers Grade II had been issued under some

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mistake. We have already indicated that the aforesaid two orders were issued after obtaining the sanction of the Engineer in Chief concerned. It is to be noted that even in the contempt petition, the respondents did not set up a case that the applicants had been appointed/reinstated as MT Drivers Grade II under mistake. We have already referred to the material portion of the order of the Tribunal dated 10.8.1990 wherein it is directed that the respondents shall reinstate the applicants as MT Drivers Grade II. Therefore, from the material on record, we are not satisfied that any mistake was committed by the respondents.

8. There is yet another infirmity in the impugned orders. In para 5 J of the OA, it is specifically stated that the impugned orders were passed by the authority concerned without affording any opportunity of hearing to the applicants and in violation of the principles of natural justice. In the counter-affidavit filed, though reply has been given to the contents of para 5J, yet the assertion of the applicants that they were not afforded any opportunity of hearing has not been denied. Surely, under the orders dated 24.5.1991, civil rights accrued to the applicants as they were appointed/reinstated as MT Drivers Grade II with a higher scale. There can be no getting away from the fact that, by the impugned orders, the applicants have been deprived of those rights and, therefore, the impugned orders have visited them with evil consequences.

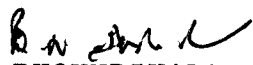
Thus, the principles of natural justice were violated and the failure of the respondents to observe the same render the

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impugned orders illegal.

9. This application is allowed and the impugned orders are quashed. There shall be no order as to costs.


(B.N. DHOUNDIYAL)
MEMBER(A)


(S.K. DHAON)
VICE-CHAIRMAN(J)

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