

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

S.No./10.2.93

O..A.No. 828/92

Date of decision: 10.2.1993.

Shri Gajinder Singh

.. Applicant

Vs.

Union of India & Others

.. Respondents.

CORAM

The Hon'ble Justice Shri S.P.Mukerji, Vice Chairman

The Hon'ble Member Shri C.J. Roy, Member (J)

For the applicant

.. Shri D.C. Vohra, Counsel

For the Respondents

.. Shri Jog Singh,
Counsel

(1) Whether Reports of local papers may be allowed to see the Judgement?

(2) To be referred to the Reporter or not?

JUDGEMENT

(Delivered by Hon'ble Shri S.P.Mukerji, Vice Chairman)

We have heard to the ld. counsels for both the parties. The applicant in this case, working as Peon in the Small Scale Industries Institute, has challenged the order of reversion dated 10.3.92 (Annexure A) by which, in supersession of his promotion order from the post of Peon to that of LDC, he was reverted back to the original post of Peon.

2. Though it is admitted that no notice for reversion was given to the applicant, the ld. counsel for the respondents has clearly come out with a plea that the applicant's promotion from the post of Peon to that of LDC against one of the three vacancies of LDC anticipated earlier, was made erroneously. It was later found that the anticipated third vacancy had not actually materialised. Accordingly, the respondents sought to revert the applicant by the impugned order. The applicant has been selected for the anticipated third vacancy of LDC in a regular manner on the recommendation

of the DPC. Though it was indicated in the order that the appointment was temporary, he was placed on trial for a period of two years. It is also admitted that by virtue of the said ~~letter~~^{for} memorandum of appointment, the applicant had ~~been~~^{for} taken over as LDC on 31.1.1992 and had ~~been~~^{for} working as LDC till the order of reversion was served.

3. Though we consider that the reversion without any notice is bad in law as it violates the principle of natural justice under Article 311(2) of the Constitution of India, none-the-less it goes without saying that the erroneous promotion can ~~not~~^{be} allowed to continue at the cost of the taxpayer. It is not ~~a~~^{the} case of the applicant ~~where~~^{for} that the reversion was due to mala-fide reason. For correcting the bona-fide ~~error~~^{error}, rules of natural justice need not be gone through. The fact remains that there was no post or vacancy against which the applicant could be accommodated.

4. In the above light, we admit the application and with the consent of Id. counsels for both the parties dispose off the same at the stage of admission with the direction that the applicant ~~can~~^{shall} be considered for the next available vacancy as and when it materialises on the basis of his selection by the DPC. This will be done without subjecting the applicant to any further process of selection. But this will further be subject to his being eligible on other aspects on the date of promotion. We also direct that in ~~equity~~^{equity} the applicant shall be paid the difference of emoluments of LDC which he was drawing on the date of reversion and the emoluments he was drawing as peon, for a period of one month from the date of reversion.

(C.J. Roy)
Member (J)
10.2.93

(S.P. Mukerji)
Vice-Chairman
10.2.93