

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

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O.A. No. 907/1992

T.A.No.

Date of decision 17-9-98

Sh.Veer Singh

... Petitioner

Sh.Vijay Pandita

... Advocate for the
Petitioner(s)

VERSUS

UOI & Ors

... Respondents

Sh.S.M.Arif

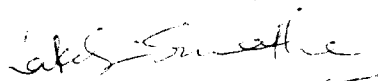
... Advocate for the Respondents

CORAM

The Hon'ble Smt.Lakshmi Swaminathan, Member (J)

The Hon'ble Shri K.Muthukumar, Member (A)

1. To be referred to the Reporter or
not?. Yes
2. Whether it needs to be circulated to
other Benches of the Tribunal? No.


(Smt.Lakshmi Swaminathan)
Member(J)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

...

OA.No.907 Of 1992

New Delhi, this 17th day of September, 1998

HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER(J)
HON'BLE SHRI K. MUTHUKUMAR, MEMBER(A)

Veer Singh
S/o Shri Chandan Singh
R/o Ram Park Extension
Loni
GHAZIABAD (U.P.)

... Applicant

By Advocate : Shri Vijay Pandita

versus

1. Union of India, through
Secretary
Information & Broadcasting
Government of India
NEW DELHI.

2. Director General
All India Radio
Aakash Vani Bhavan
NEW DELHI.

... Respondents

By Advocate: Shri S. M. Arif

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, M(J)

The applicant is aggrieved by the reversion order passed by the respondents dated 19.9.90 reverting him from the officiating post of LDC(adhoc) to his original post in Group 'D'. This order has been issued in pursuance of the respondents order dated 12.9.90 on 19.9.90. Although the order dated 19.9.90 states that the reversion is with immediate effect, but it has been given retrospective effect from 12.9.90. The reason given by the respondents for the reversion of the applicant to the lower post is that the applicant did not have a Matriculation certificate

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from a recognised Board at that time, which was the minimum education qualification required under the Central Secretariat Clerical Service Rules/Instructions for appointment as LDC.

2. The applicant was appointed in the Group 'D' post of Peon on 22.4.80. The respondents promoted him as LDC on purely temporary basis by order dated 14.9.82. According to the respondents, they have discovered the mistake in the adhoc promotion order sometime in 1990, i.e. after eight years of his appointment as LDC (adhoc). Admittedly, no show cause notice has been issued to the applicant before the impugned reversion order was issued on 19.9.90. Apart from this, the impugned reversion order cannot also revert the applicant from the higher post with retrospective date, i.e. 12.9.90 even though it states that it is with immediate effect. This is also inconsistent and invalid.¹⁸

3. Shri Vijay Pandita, learned counsel relies on a judgment of the Tribunal in **Nand Kishore & Ors. Vs Union of India** in OA.815/97 (copy placed on record). He also submits that by the respondents' O.M. dated 12.12.88, the certificate issued by the Board of Adult Education and Training, Delhi, has been recognised as equivalent of 10+2 examination. Shri S.M. Arif, learned counsel, does not dispute the fact that the applicant had passed the examination in 1981 from the Board of Adult Education which has been recognised from 12.12.1988. Learned counsel for the applicant has also filed MA.2890/97 to which the respondents

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have also filed their reply. In this MA, the applicant has submitted that he had applied for the post of LDC through Staff Selection Commission (SSC) through proper channel and had also passed the examination for LDC. He has also submitted that one Shri Elois Ekka, UDC working in the same organisation, had also done his Matriculation from the Board of Adult Education in 1984 and another person Shri Gulshan Rai, had done the Matriculation from the same Board in 1980.

4. The respondents, in their reply, have submitted that Shri Elois Ekka, Group 'D' employee was appointed in the LDC grade on regular basis with effect from 13.11.86. They have also submitted that since the Ministry of Human Resources Development (Department of Education) had issued orders of non-recognition of the education qualification offered by the Board of Adult Education and Training in 1989 and Shri Elois Ekka had already been appointed on regular basis prior to 1989, he was not reverted. In the case of Shri Gulshan Rai, UDC who is working with them, they have stated that he was appointed from Group 'D' as LDC on 29.12.86 against the 5% Seniority quota on regular basis and ^{as it} it was prior to 1989, he was also not reverted. The above replies of the respondents is hardly satisfactory because while they seem not to have reverted persons regularly appointed as LDCs who have the same certificate as the applicant,

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they ¹³ have not satisfactorily explained why a different yardstick has been applied in the case of the applicant who was appointed on adhoc basis.

5. Shri S.M. Arif, learned counsel has submitted that the Ministry of Human Resources Development (Department of Education) had issued another O.M. dated 13.5.92 in which with regard to this OA, it has been stated that the certificate issued by the Board of Adult Education and Training, New Delhi was not a recognised examining body and hence "the certificate whatsoever issued by it is not recognised to any equivalence." Learned counsel was, however, unable to state whether this O.M. was brought to the notice of the Tribunal in OA. ¹³815/97 which has followed the judgment of the Delhi High Court in CWP No. 528/95 in the matter of Dayal Singh Rawat Vs UCO Bank & Ors. in which the High Court had relied upon the letter dated 12.12.88 issued by the Department of Education, Ministry of Human Resources Development, referred to above. In OA. 815/97, the Tribunal has noted that on the basis of the said order of the Government of India, Department of Education, Ministry of Human Resources Development dated 12.12.88, the High Court came to the conclusion that at least till the said date, namely, 12.12.88, the certificate issued will have to be treated as equivalent to Matriculation. In any case the letter dated 13.5.92 only in respect of the applicant in the present case cannot be given effect to contrary to the O.M. issued by the Government of India, Department of Education, dated

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12.12.88. We also note that the facts in **Nand Kishore & Ors. Vs UOI & Ors (supra)** is in all fours with the facts in the present case. In the circumstances, therefore, we respectfully follow the judgment of the Tribunal in **Nand Kishore & Ors. Vs UOI & Ors. (OA.815/97)**.

6. It is also settled law that any order having civil consequences cannot be passed without complying with the principles of natural justice. Admittedly, no show cause notice had been issued to the applicant by the respondents before the impugned order dated 19.9.90 reverting the applicant to the lower post of Group 'D' was issued and that too after he had held the higher post for over eight years from 14.9.82. The impugned order is also liable to be set aside for non-compliance of the principles of natural justice.

7. In the result, for the reasons given above, the application succeeds and is allowed. The impugned order dated 19.9.90 is quashed and set aside as regards the applicant. The applicant will be entitled to consequential benefits in accordance with law/rules.

No order as to costs.



(K. Muthukumar)
Member (A)



(Smt. Lakshmi Swaminathan)
Member (J)

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