

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. 2686 of 1993

New Delhi this the 12th day of July, 1994

Mr. Justice S.K. Dhaon, Acting Chairman
Mr. B.N. Dhoundiyal, Member

Shri Swaran Singh
R/o 15/16, Subhash Marg, Daryaganj,
New Delhi.

...Applicant

By Advocate Shri B.S. Maine

Versus

1. The Secretary,
Min. of Information &
Broadcasting,
Shastri Bhavan,
New Delhi.
2. The Joint Secretary (Films)
Min. of Information &
Broadcasting,
Shastri Bhavan,
New Delhi.
3. The Director (Song & Drama Divn.)
15/16, Subhas Marg,
Min. of Information & Broadcasting,
Daryagang,
New Delhi. Respondents

By Advocate Shri J.C. Madan

ORDER (ORAL)

Mr. Justice S.K. Dhaon, Acting Chairman

The order dated 09.12.1993 passed by the Deputy Director (Administration) reverting the applicant from the post of Actor (Staff Artist) to the post of Performer (Staff Artist) is being impugned in the present application. The impugned order discloses that the same has been passed in pursuance of the direction given by this Tribunal in O.A. No.1247 of 1989 on 05.02.1993.

2. From the exchange of affidavits between the parties, it is clear that the applicant was not impleaded as one of the respondents in the said O.A. 1247 of 1989. From the perusal of the judgment, it is clear that the respondents did not raise the plea in the O.A. that the applicant was

a necessary party and, therefore, this Tribunal could not grant any effective relief.

3. Indisputably, the applicant held the promotion post for a period of over 13 years before the passing of the impugned order. The order of suspension had not been passed on the ground that the applicant was unfit to hold the promotion post. The only reason given in support of the said order was that the same had been passed to give effect to the directions of the Tribunal in O.A. 1247/1989.

4. The impugned order was passed without affording an opportunity of hearing to the applicant. In this case, the applicant was at least entitled to a hearing before he could be reverted from the promoted post. This is enough to vitiate the impugned order.

5. Paragraph 6 of the judgment in O.A. 1247 of 1989 may be extracted:

"In the facts and circumstances of the case, we direct the respondents to convene a review DPC to consider the cases of those falling in the eligibility zone for promotion to 2 posts of Actor in 1981 as well as during subsequent years....."

6. Learned counsel for the applicant has urged the following in addition to the principal contention that the impugned order has been passed in violation of the principles of natural justice:-

(i) The order had been passed in disregard of the direction given in paragraph 6 aforequoted.

(ii) The impugned order was discriminatory insofar as persons junior to him have been retained and have not been reverted.

(iii) Surely, vacancies must have occurred subsequent to the year 1981 and the case of the applicant was not considered for being absorbed in those vacancies before the passing of the impugned order.

7. Having heard the learned counsel for the parties, *prima facie*, it appears to us that all the three contentions have some force and, therefore, these contentions require

(7)

a close examination.

8. In view of the order we are about to pass, we do not consider it appropriate to examine these contentions. The relevant competent authority shall give a hearing to the applicant and consider the aforementioned three contentions and any other relevant contention which the applicant may desire to advance before it. It shall, if it disagrees with any of the contentions of the applicant, shall record reasons in support of his order.

9. The application succeeds. The impugned order is quashed. There shall be no order as to costs.

B.N. Dhoondiyai
(B.N. DHOUNDIYAI)

MEMBER (A)

S.K. Dhaon
(S.K. DHAON)
ACTING CHAIRMAN

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