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CENTRAL ADMINISTRATIVE TRIBUNAL, ALIAHABAD BENCH,
ALIAHABAD.

O.A.No. 1327 of 1988

Brijesh Narain SaxenaApplicant.

Versus

Union of India & others.....Respondents.

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. K. Obayya, A.M.

(By Hon'ble Mr. Justice U.C. Srivastava, V.C.)

The applicant was appointed as Lower Division Clerk in Ordnance Clothing Factory, Shahjehanpur. He was promoted to the post of Assistant Cashier vide order dated 13.11.84 on adhoc basis and subsequently his promotion was regularised vide order dated 28.7.86. Vide General Manager's order dated 4.5.88, the applicant was reverted to the post of Lower Division Clerk w.e.f. 4.5.88. Vide the same order, one Yamin Hasan was promoted to the post of Asstt. Cashier in Officiating capacity as a consequence of reversion of the applicant. The applicant filed an appeal against the said order and he received a reply from the General Manager on 6.9.88 that his appeal cannot be entertained. The result of the reversion order is that his emoluments have been reduced as he was in the grade of 1200-1260. The reversion order has been challenged on the ground that it is violative of Article 311 of Constitution of India and it has been passed without giving any opportunity of hearing to the applicant and thus it is punitive in nature.

2. The respondents have admitted that the applicant was regularised but he was not confirmed on the said post. They have also admitted that he was granted special pay for handling the cash for the period from 13.11.84 to 29.12.85 as he was

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also performing the duties of the Cashier. As the applicant was not found suitable to handle the cash and as such though he was senior Asstt. Cashier but one A.K.Mishra, who was also Asstt. Cashier and junior to the applicant, was entrusted the duties of the Cashier w.e.f. 30.12.85. Later on he was designated as Cashier. On 29.3.87, a letter was issued to the applicant through which he was advised to show improvement in his performance but since the applicant did not show any improvement and his performance remained unsatisfactory, as such after assessment of his work, he was found unfit to carry on the job of the Asstt. Cashier and consequently reversion order dated 4.5.88 was passed.

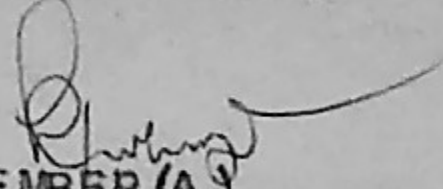
3. Thus, from the facts, it is clear that of course as the applicant was not found suitable for the post of Assistant Cashier, that is why A.K. Mishra was given the charge of Asstt. Cashier who was ultimately promoted as Cashier who was the Head of the applicant and the applicant continued to work as Asstt. Cashier and subsequently he was also reverted. In case his performance was not satisfactory without giving an opportunity of hearing, he could not have been reverted. As such the reversion order in this case is punitive inasmuch as it is because of incompetence and inefficiency of the applicant which the respondents adjudged at their own level and reverted the applicant. This violates Article 311 of Constitution of India and accordingly, the reversion order dated 4.5.88 is quashed and the applicant will be deemed to be continuing as Assistant Cashier. However, it will be open


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for the respondents to take any action in the matter in accordance with law. With these observations the application stands disposed of. No order as to costs.


MEMBER (A)


VICE CHAIRMAN.

DATED: FEBRUARY 16, 1993..
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