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RESERVED

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
ADDITIONAL BENCH AT ALLAHABAD

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Allahabad : Dated this 1st day of November, 1996
Original Application No. 405 of 1993

DISTRICT : Bareilly

CORAM:-

Hon'ble Mr. S. Das Gupta, A.M.

Hon'ble Mr. T.L. Verma, J.M.

1. Shri Udai Manyu (6404574)
Son of Shri Mohan Lal
R/o Village Agarsh Post-Agarsh
District-Bareilly,
presently working in 42 Company, Army Supply
Corps ASC (Supply) Bareilly Cantt-243004.
2. Shri Ram Prasad (6404573) son of Shri Khem Karan Lal
Resident of Village Bhartol Post-PAC Nakatiya
District-Bareilly, presently working in
42 Company Army Supply Corps ASC (Supply),
Bareilly Cantt-243004.

(By Shri RC Pathak, Advocate)

.....Applicants

Versus

1. Union of India through the
Defence Secretary, Ministry of Defence,
Government of India,
South Block, New Delhi-11
2. The Director General of Supplies and Transport
(ST-12),
Quarter Master General's Branch,
Army Headquarters, Sena Bhawan,
DHQ PO New Delhi-11
3. The Commanding Officer
Army Supply Corps ASC Records (Supply)
Bangalore-7
4. The Commanding Officer
42 Company Army Supply Corps
ASC (Sup) Type 'C'
Bareilly Cantt-243001
5. The Controller of Defence Accounts
Central Command
Meerut Cantt.

(By Shri N.B. Singh, Advocate)

.....Respondents

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O R D E R

By Hon'ble Mr. S. Das Gupta, A.M.

Two applicants have jointly filed this OA under Section 19 of the Administrative Tribunals Act, 1985, challenging an order dated 23-3-1990 (Annexure-A-5) by which the respondents reverted the applicants among others from the post of a highly skilled Grade II Carpenter to the grade of skilled Carpenter. They have prayed that the aforesaid order be quashed and that they be reinstated on the post of highly skilled Grade II Carpenter with arrears of wages and other benefits.

2. The brief facts of the case which are not disputed are that both the applicants were promoted on ~~1.4.1996~~ to the post of highly skilled Grade II Carpenter ~~on~~ ^{13.11.96} passing the requisite trade test. They continued to work on the said post and their pay was fixed in the pay scale of highly skilled Grade II and they are also granted increments from time to time in that grade. They were even asked to appear in departmental trade test in December, 1986 for promotion to the post of highly skilled Grade I. Both the applicants appeared in the trade test and cleared the same. However, instead of being promoted to the higher post of highly skilled Grade II, they were reverted to the lower post of skilled Carpenter by the impugned order dated 23-3-1990. Having failed to obtain any redressal of their grievance from the department, the applicants approached this Tribunal for the reliefs aforementioned.

⊛ corrected
vibe order
dated 13.11.96
on this application
No 2336 of 1996

13/11/96

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3. The applicants have challenged the impugned order of reversion on the ground that this was passed arbitrarily without giving any opportunity. The respondents, who have filed a CA, have stated that the reversion of the applicants became necessary due to revision of the seniority list as a result of which the position of the applicants in the seniority list was relegated. It has been stated that as per the directions of the Army Headquarters, the Review DPC had to be carried out during March, 1988 in order to correct certain earlier mistakes in granting confirmation. As a result of this, the dates earlier given for confirmation of the applicants among others were changed and this resulted in the change of their position in the seniority list. They were, therefore, not ^{senior enough} ~~seen in that~~ to be considered for promotion as highly skilled Grade II and, therefore, they were reverted by the impugned order.

4. We have heard learned counsel for both the parties and perused the records carefully.

5. The applicants were admittedly promoted as highly skilled Grade II Carpenters ^{Painters} on passing the requisite trade test. Also admittedly their pay was fixed in the higher grade and they were granted increments from time to time and that they enjoyed the benefits of increment for several years. It has been admitted that they were even considered for promotion to highly skilled Grade I, ~~after~~ they appeared in the trade test and cleared trade test. In such circumstances, even if it is necessary to revert the applicants in order to rectify certain administrative

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errors which might have been committed by the respondents while promoting them on the post of highly skilled Grade II, ~~that~~^{least} that should have been done ^{way to} giving them an opportunity to show cause why they should not be reverted. Admittedly, no such opportunity was given to the applicants. The reversion of the applicants, therefore, was in flagrant violation of the principles of natural justice. It is settled position of law that no adverse order can be passed against an employee having civil consequences without first giving him an opportunity to show cause. It is not the case of the respondents that the promotion of the applicants to the post of highly skilled Grade II was de hors the rules. All that has been said is that their reversion became necessary as a result of change in the seniority list. The applicants, therefore, had acquired a valuable right on being promoted to the higher grade of highly skilled Grade II and the said right could not have been taken away without being given an opportunity to show cause.

6. In view of the foregoing, this application succeeds. The impugned order dated 23-3-1990 is quashed. The applicants shall be deemed to have continued on the post of highly skilled Grade II as if they were never reverted. They shall be entitled to arrears of salary during the intervening period. Nothing in this order shall, however, preclude the respondents from passing a fresh order of reversion of the applicants to the

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lower post after following procedure in accordance with law and the principles of natural justice.

7. The parties shall, however, bear their own costs.

[Signature]
Member (J)

[Signature]
Member (A)

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