

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 19th day of April 2002.

QUORUM : HON. MR. C.S. CHADHA, A.M.

HON. MR. A.K. BHATNAGAR, J.M.

D.A. No. 401 of 1995.

Uma Shankar Tripathi s/o Sri R.N. Tripathi, PA No.37898/LHF
(OG), 24, E.D. Manauri, Dist. Allahabad..... Applicant.

Counsel for applicant : Sri G.P. Singh.

Versus

1. Union of India through the Secretary Defence Department,
New Delhi.
2. Air Force Central Accounts Office, New Delhi.
3. Air Officer Commanding in Chief, Maintenance Command,
Nagpur.
4. Air Officer Commanding, 24 E.D. Air Force, Manauri,
Allahabad.....

..... Respondents.

Counsel for respondents : Sri G.R. Gupta.

ORDER (ORAL)

BY HON. MR. C.S. CHADHA, A.M.

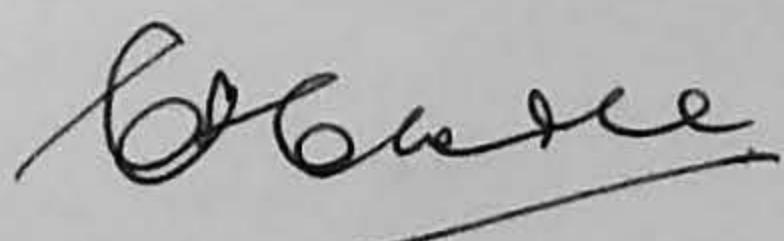
The case of the applicant is that vide Annexure 2-A dated 11.10.94, he was promoted to the rank of LHF(OG) and vide Annexure 2-B, his pay was fixed at Rs.11 75/= p.m. month w.e.f. 1.10.94. All of a sudden vide the impugned order at Annexure I dated 10.1.95, he was reverted to the trade of F/M(I) retrospectively w.e.f. 1.11.94. Counsel for the applicant has pleaded that the order of reversion is a non-speaking order without giving any reason and further cannot be made effective from a retrospective date.

2. Counsel for the respondents states that while making the appointment vide Annexure CA-I dated 5.10.94, it had been clarified to Sri U.S. Tripathi that his promotion to LHF(OG) is subject to the condition that in case Sri

Chandee

Tulsi Ram, Fireman Gr.I court case is cleared, Sri U.S. Tripathi will be reverted back. Counsel for the applicant states that this is a fabrication because it had never been communicated to him. In the appointment order, this condition has never been mentioned. We are in agreement with the counsel for the applicant and are constrained to observe that Annexure CA-I is totally false and fabricated. There are several reasons to make this judgment. Firstly, the Army authorities have passed orders vide Annexure 2-A and 2-B which are both typed whereas this one is written in hand. We are afraid that station Hqrs. administration normally does not resort to this practice. Further, at the bottom of CA-I, there is endorsement that contents of para 2 & 3 have been communicated to the individuals concerned but that does not bare the signature of the concerned persons. In another corner, there is an alleged admission in Hindi stating that all the concerned persons have been informed of the order but that also does not bare any signature.

3. In the absence of any such condition imposed at the time of promotion, the concerned authorities, who passed the demotion order exceeded their powers and it is apparent that they have concocted and forged CA-I in an effort to cover up their mistake. We are afraid that applicant cannot suffer because of their mistake for which the respondents are alone responsible. Counsel for the respondents states that if the applicant is restored to his original rank, a post will have to be created, which is not possible. The applicant cannot be made to suffer for the mistake of the authorities and we direct that in view of the non-speaking order of reversion issued retrospectively, it is held to be illegal and quashed and, therefore, applicant should be restored to his original position as if the reversion order of



10.1.95 was not passed at all. If, for that purpose a supernumerary post has to be created, the same must be done.

4. We would also like to go on record that the officers who have forged and fabricated CA-I should be proceeded departmentally and severely punished for misleading this court. We also impose costs of Rs.1000/= on the respondents for this deliberate act of forgery and mischief. The order regards reinstatement of the applicant shall be executed within 15 days from the date of receipt of a copy of this order.

Arv
J.M.

St Castle
A.M.

Asthana/
22.4/2.5.02