

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION No.31/2002

TUESDAY, THIS THE 3RD DAY OF SEPTEMBER, 2002

HON'BLE MR. JUSTICE R. R.K. TRIVEDI .. VICE CHAIRMAN
HON'BLE MAJ. GEN. K.K. SRIVASTAVA .. MEMBER (A)

Smt. Prem Arora,
aged about 44 years,
W/o Shri K.K. Arora,
R/o 136, Rajpur Road,
Dehradun.
Presently posted as
Inspector of Income Tax (TDS & Survey),
Income Tax Office,
Dehradun. ... Applicant

(By Advocate Shri K.C. Sinha/ A. Srivastava)

Versus

1. Union of India, through
Chief Commissioner of Income Tax (CCA),
U.P. West Region,
Kanpur.
2. Commissioner of Income Tax,
Income Tax Office,
Dehradun. ... Respondents

(By Advocate Shri R.C. Joshi)

ORDER

Hon'ble Mr. Justice R.R.K. Trivedi, Vice Chairman:

We have heard Shri K.C. Sinha, learned counsel
for the applicant and Shri Rajiv Shama, learned counsel
appearing for the respondents.

2. By this O.A. under Section 19 of the A.T. Act,
1985, the applicant has challenged the order dated 27.8.02,
by which the respondent No.2 has reverted the applicant
to the post of Stenographer Gr.I.

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3. The facts of the case are that the applicant joined the Income Tax department in 1978 as Stenographer. By order dated 4-7-2001, the applicant was included in the panel of selected candidates for promotion as Income Tax Inspector. Her name was shown at Sl.No.44. By order dated 4.7.2001, the applicant was posted as Inspector of Income Tax at Dehradun where she is working. However, by orders dated 27.4.2002 and 30.4.2002, the applicant was reverted from the post of Inspector of Income Tax, which was challenged in this Tribunal by filing O.A. No.12/2002. The O.A. was allowed on 7.5.2002 with the following direction.

"The O.A. is accordingly allowed. The impugned orders dated 30.4.2002 and 27.4.2002 passed by CCIT (CCA Kanpur) are quashed. The applicant shall be entitled to continue as Inspector of Income Tax. However, it shall be open to the respondents to pass fresh order in accordance with law. Copy of this order shall be given within 24 hours."

4. In pursuance of the aforesaid order, the applicant was served with the show cause notice dated 4/5.6.2002, a copy of which has been filed as Annexure-A7. In response to the aforesaid show cause notice, the applicant made an application on 12.6.2002 and demanded certain papers which ~~has~~ been referred to in para 3 of the application of the application and ~~has~~ been described below:

- a) A copy of eligible candidates selected for ITI for promotion from Stenographer Cadre.
- b) A copy of decision of Hon'ble High Court, Allahabad in Writ Petition No.46442 of 2000 in the case of Arvind Kumar Trivedi and other vs. Union of India and others.

- c) A copy of instructions from the Board regarding reduction of vacancies.
- d) A copy of the letter regarding Ration of 3:1 between M.S. and Stenographer Cadre.

5. The grievance of the applicant is that these papers were not supplied to her. The respondent No.2 has passed the impugned order on 27.8.2002, which has been impugned in this O.A. About the non supply of the necessary documents, the respondent No.2 has observed as under in the impugned order:

"The list of UR category of stenographer from seniority side had already been furnished to Smt. Prem Arora along with the show cause notice dated 5.6.2002. The copy of instructions from the Board regarding reduction of vacancies is not considered relevant to the case. The number of vacancies is circulated by the CCIT and he found that excessive officials were promoted as Inspector against non-existent vacancies. Similarly, the copy of letter regarding ration of 3:1 between Ministerial Cadre and Stenographer Cadre is not relevant at this stage, neither is the decision of Hon'ble Court of Allahabad in writ petition no. 46442 of 2000 in the case of Arvind Kumar Trivedi & Others. In any case, copies of Court judgements are not required to be supplied by the Department."

6. The fact that the list of UR category of Stenographers was not supplied to the applicant is clear from the show cause notice itself. The applicant has denied this fact by making an averment in para 4(xiii) of the O.A. She also denied the fact immediately after service of the show cause notice by making an application on 12.6.2002. The view taken by respondent No.2 that the documents demanded by the applicant were not relevant does not appear to be correct. If the necessary documents are not supplied, it

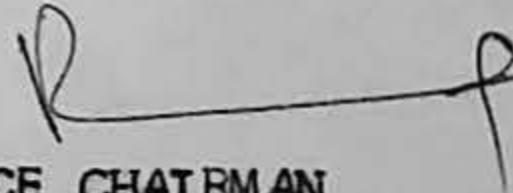
is difficult for the applicant to make her submissions in reply to the show cause notice. In fact, the opportunity which was required to be given for satisfying the principles of natural justice has been denied in this case. In our opinion, the order cannot be sustained.

7. Though Shri Rajiv Sharma, learned counsel for the respondents tried to justify the order, ^{but} considering the fact that the necessary documents have been denied to the applicant, the order cannot be sustained.

8. For the reasons stated above, the O.A. is allowed. The order dated 27.8.2002 is quashed. The applicant shall be entitled to continue as Inspector of Income Tax at Dehradun. However, it shall be open to the respondent to pass fresh order in accordance with law and in the light of the observations made ~~in the above behalf~~. No order as to costs. A copy of the order shall be given within 48 hours.



MEMBER (A)



VICE CHAIRMAN

p.s.p.