

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1064 of 2003

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Mr. D.R. Tiwari, Member A

Tuesday, this the 09th day of September, 2003

1. Shri Gaya Prasad S/o Late Ganeshi Dass, working as Income tax officer (Technical), In the office of the Commissioner of Income Tax, Muzaffarnagar, U.P. Resident of - V/2. Income Tax Colony, Meerut Road, Muzaffarnagar,
2. Shri Amrit Lal s/o Sh. Phate Singh working as Income tax officer Deoband R/o Income Tax Colony, Meerut Road, Muzaffarnagar.

Applicant.

By Advocate : Shri K.C. Sinha

Versus

1. Union of India Through Secretary, Ministry of Finance, North Block New Delhi.
2. The Chairman, Central Board of Direct Taxes, New Delhi.
3. Chief Commissioner of Income Tax,
(Cadre Controlling Authority)
U.P. (West) Region, Aayakar Bhavan,
Civil Line, Kanpur.
4. Sh. D.C. Mishra s/o Late Shiv Ram Mishra,
Income Tax Officer, Ward - 5(2), Firozabad,
R/o 72, Kailash Vihar, Bye Pass Road, Agra.

Respondents.

By Advocate : Shri R.C. Joshi

O R D E R (Oral)

By Hon. Mr. Justice R.R.K. Trivedi, V.C.

Heard Shri K C Sinha, learned counsel for the applicant. Km. Mamta Sharma, holding brief of Shri S.K.Anwar, learned counsel for the respondent nos.

1 & 3.

As this application is being disposed of finally we do not think it necessary to give notice to respondent no.4, and his interest is protected by giving direction to respondent no.2 to give him opportunity of hearing before passing order.

By this O.A. filed under section 19 of Administrative Tribunal Act 1985, the applicants have challenged the order dated 28.2.2003 (Annexure - V) by which the seniority of respondent no.4, who was junior to applicants, has been changed and he has been put above O P Tripathi and Keemat Rai. It appears that the impugned order has been passed in pursuance of the order of this Tribunal dated 25.9.2002 passed in O.A. No. 1089 of 2002. It may be mentioned that in the above O.A. applicants were not party. This Tribunal disposed of the O A with the following directions :

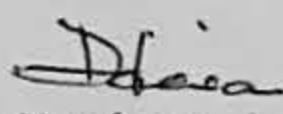
" .. in view of aforesaid, the O.A. is finally disposed of with direction to respondents that the representation of the applicant dated 11.01.2002 (Annexure A -IV) be decided by the Competent Authority by a reasoned and speaking order within 4 months from the date of communication of this order. "

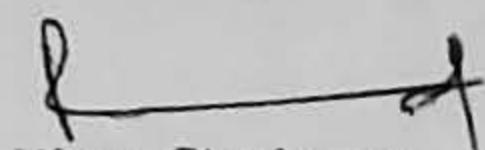
It is true that in the order of this Tribunal direction was not given to hear those who were likely to be affected by the order of the Chief Commissioner i.e. respondent no.3, but Chief Commissioner on his own should have taken care to give opportunity to those, who were likely to affect by his order while altering, ^{the} seniority of respondent no.4 i.e. Shri D C Mishra. In our opinion, as the applicants of the present O.A. have also filed representations before respondent no.2 (Annexure III & IV), in our opinion, interest of justice would be served, if respondent no.2 is directed to consider and decide the representations of the

applicants within a specified time and by a reasoned order after hearing all the concerned parties.

2. The O.A. is accordingly disposed of finally with the direction to respondent no.2 to consider and decide the representations of the applicants by a reasoned and detailed order within a period of 3 months, after hearing the applicants, Shri D C Mishra (respondent no.4), Shri Keemat Rai, Shri N.C. Tomar and Shri Chottey Lal Meena, who have been affected by order dated 28.2.2003. It is further provided that the respondent no.2 shall take care that the interest of the applicant^s is not prejudiced in the matter of promotion, which accordingly to applicants is scheduled to be taken into consideration on 14.9.2003. For this purpose applicants shall make an application separately. ^{to Com. u}

The copy of the order shall be issued to the parties within 24 hours.


Member A


Vice-Chairman

Brijesh/-