

Mr. M.S. Madhu

.. Applicant

Versus

Union of India & Ors.

.. Respondents

CORAM : Hon'ble Mr. G.S. Nair .. Vice Chairman

Hon'ble Mr. M.M. Singh .. Administrative  
Member

Counsel for Applicant : Mr. J.J. Yajnik

Counsel for Respondents: Mr. J.D. Ajmera

: O R D E R :

Date : 20.3.1990

Per : Hon'ble Mr. G.S. Nair .. Vice Chairman

Heard Mr. J.J. Yajnik and Mr. J.D. Ajmera, learned counsel on either side. The applicant who was Office Superintendent in the Central Excise department, was promoted on ad hoc basis <sup>to</sup> the post of Administrative Officer by the order dt. 15.5.85, and thereafter on the recommendation of the Departmental Promotion Committee held on 22.7.1985, was regularly promoted to the cadre of Administrative Officer by the order dt. 24.7.1985. The applicant was reverted to the grade of Office Superintendent by the order dt. 28.12.1987 which order is under challenge in this application. It is urged that the action of the respondents is arbitrary, discriminatory and violative of Article 14 and 16 of the Constitution of India and also of the principles of natural justice.

2. A reply has been filed on behalf of the respondents where it is stated that while

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functioning as Administrative Officer, the applicant had committed serious mistake in the purchase of article, stationery etc. on account of which a memorandum of charges<sup>was</sup> issued against him under the C.C.S. (CCA) Rules. It is also stated that the applicant was placed under suspension with effect from 10.12.1986 in view of the contemplated disciplinary proceedings. The allegation that the order of reversion is discriminatory and arbitrary and violative of principles of natural justice is disputed by the respondents.

3. Though ~~the~~ Advocate Mr. Ajmera appearing on behalf of the respondents attempted to support the impugned order of reversion, ~~we~~<sup>we</sup> have least hesitation in holding that the order is ex facie, illegal, being violative of the mandate under clause <sup>(2)</sup> (ii) of Article 311 of the Constitution of India which provides that no civil servant shall be reduced in rank except after an inquiry in which he has been informed of the charge against him and given reasonable opportunity of being heard in respect of the same. It is indeed surprising that after the issue of a memorandum of charges against the applicant alleging serious imputations, without waiting for the result of the inquiry the respondents have straightaway passed the impugned order of reversion by which the applicant has been reduced in rank. It has to be emphasised that the applicant was holding the higher post on a regular basis, having been recommended by a duly constituted D.P.C. for promotion to that post.

4. In the result, we set aside the order dated

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28th December, 1987 (Annexure A-4). The applicant shall be allowed the consequential benefits within a period of one month from the date of receipt of the copy of the order.

Application is disposed of as above.

M H L

( M M Singh )  
Administrative Member

*[Signature]*  
20.3.90  
( G S Nair )  
Vice Chairman

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