

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH

Date of Order 11.12.1995.

O.A. No. 314/1995.

Ismail Khan

...Applicant.

Vs.

Union of India and others

...Respondents.

CORAM: HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN.
HON'BLE MS. USHA SEN, ADMINISTRATIVE MEMBER.

For the applicant - Mr. Vijay Mehta, advocate.
For the respondents - Mr. V.D. Vyas, advocate.

O R D E R (ORAL)

(Hon'ble Mr. Gopal Krishna, Vice Chairman)

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Applicant, Ismail Khan, has filed this Application under Section 19 of the Administrative Tribunals Act, 1985, praying that the order Annexure A/1 and ^{the} other two orders mentioned therein be quashed. He has also prayed that the respondents be restrained from recovering any amount pursuant to the impugned order.

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

3. The applicant was appointed as a Clerk Grade-I in the pay scale of Rs. 1200-2040 w.e.f. 27.6.86. He was promoted to the post of Accounts Assistant in the scale of Rs. 1400-2600 w.e.f. 26.6.89. It has been stated by him that Shri Brijraj Singh who was^a Clerk Grade-I in the Branch Traffic Accounts was transferred at his request to the office of Respondent No. 2 vide order dated 19.1.88. Shri Brijraj Singh was assigned

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bottom seniority in the office of Respondent No. 2. The applicant claims that Shri Brijraj Singh was junior to him. However, he was appointed on adhoc basis prior to the applicant as Accounts Assistant. He started drawing higher pay than the applicant while working on the promoted post of Accounts Assistant and to remove this anomaly the pay of the applicant was stepped up to Rs. 1520/- w.e.f. 28.1.91 at par with that of Brijraj Singh. The applicant was accordingly paid arrears according to stepping up of his pay. The applicant is aggrieved by the order dated 20.7.95 issued pursuant to orders dated 29.6.95 and 30.6.95 passed by the Respondent No. 2 by which the benefit of stepping up of pay granted to the applicant was cancelled and the excess payment made to the applicant was directed to be recovered. On the contrary, the contention of the respondents is that the benefit of stepping up of pay was erroneously given to the applicant and the same could be withdrawn in accordance with the extant rules.

4. It is settled law that when an incumbent is visited with adverse civil consequences, he should be given a show cause notice or an opportunity of hearing. There is nothing on the record to show that before passing the impugned order, the applicant was served with a show cause notice or afforded an opportunity of hearing. We are of the view that the impugned order was issued in breach of the principles of natural justice enshrined in Article 14 of the Constitution. The impugned order is, therefore, liable to be quashed.

5. In the result, the impugned order at Annexure C/1 is set aside. However, the respondents shall be at

liberty to pass a fresh order as per rules after giving a show cause notice to the applicant as well as an opportunity of hearing to him. O.A. is disposed of accordingly with no order as to costs.

Usha Sen
(USHA SEN)
ADMINISTRATIVE MEMBER

Gopal Krishna
(GOPAL KRISHNA)
VICE CHAIRMAN

"MS"