

प्रमाण (प्रक्रिया) नियमावली JODHPUR के अंतर्गत निःशुल्क प्रति

Date of Order: 21.9.1995.

1. O.A.No.297/95.

Sumer Singh

...Applicant.

Vs.

Union of India & Ors.

...Respondents.

Mr. Vijay Mehta, Counsel for the applicant.
Mr. Jagdish Vyas, Brief holder for,
Mr. V.D.Vyas, Counsel for the respondents.

...

2. O.A.No.329/95.

Shiv Karan

...Applicant.

Vs.

Union of India & Ors.

...Respondents.

Mr. Vijay Mehta, Counsel for the applicant.
Mr. Jagdish Vyas, Brief holder for,
Mr. V.D.Vyas, Counsel for the respondents.

...

3. O.A.No.328/95.

Anil Purohit

...Applicant.

Vs.

Union of India & Ors.

...Respondents.

Mr. P.K.Lohra, Counsel for the applicant.
Mr. Jagdish Vyas, Brief holder for,
Mr. V.D.Vyas, Counsel for the respondents.

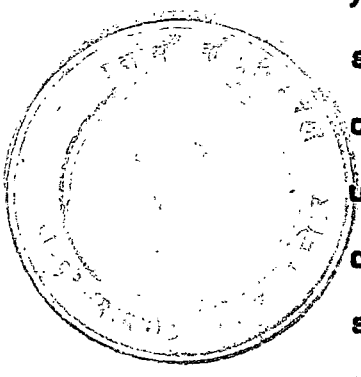
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CORAM:

Hon'ble Ms Usha Sen, Administrative Member.

BY THE COURT:

As these three O.As involve a common question of law and the issue in dispute is also the same they are being decided by a common judgement.



2. The applicants of these three O.As were working as Clerk Grade-I from different dates under the respondents. They were promoted as Accounts Assistants in the pay scale of Rs.1400-2600 in the years 1987 and 1988. They were given the benefit of stepping up of pay with reference to certain persons considered to be their juniors. The pay was stepped up vide the order dated 25.8.92 mentioned in the order of 20.7.1995 at Annexure A/1 of the O.As. The stepping up of pay was made effective from 1.8.88 in the case of the applicants, Shri Anil Purohit and Shri Sumer Singh, and from 28.1.1991 in the case of the applicant, Shri Shiv Karan. This stepping up of pay has been cancelled now vide the impugned order dated 20.7.95 at Annexure A/1. This order states that the pay of the applicants shall be refixed in accordance with the rules and the excess payment made on account of the stepping up of the pay ordered earlier shall be recovered.

3. In the reply filed by the respondents, it has been stated that the stepping up of pay of the applicants had been done erroneously and hence the

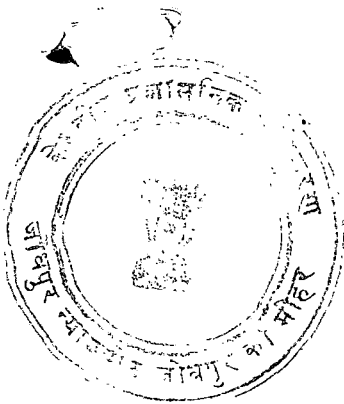
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same has been cancelled vide Annexure A/1. The respondents have however, not denied the allegation made in the O.As that no show cause notice was given to the applicants before the impugned order dated 20th July, 1995 was passed.

4. The applicants have shown the judgment dated 4.11.93 of this Bench (Annexure A/5 in O.A. No.297/95) which was delivered under similar circumstances as the present cases and in that judgment it was held that the principles of natural justice had not been followed in so far as no show cause notice was given to the applicants before cancelling the orders granting the benefit of stepping up of pay. Therefore, the judgment had set aside the impugned order by which ~~cancelled~~ the benefit of stepping up of pay was cancelled.

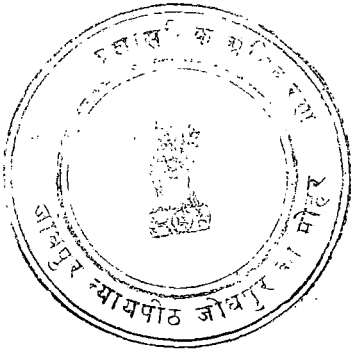
5. It is settled law that when an employee is visited ^{with} ~~by~~ adverse civil consequences he should first be given a show cause notice and a decision taken only after getting his reply to the notice. In view of the said position of law, the impugned order dated 20.7.95 which is at Annexure A/1 of the three O.As is set aside so far as it relates to the applicants of the three O.As. However, the respondents would be at liberty to pass an order as they deem fit in accordance with the rules after giving a notice to the applicants to show cause why the proposed decision should not be taken. The respondents are

...4.



also hereby directed that they may give a personal hearing to the applicants before taking their decision. In case the applicants ask for inspection of certain documents to enable them to file their reply ~~concluding the hearing~~ and the respondents refuse such inspection they should give the reasons for the refusal to the applicants. The decision taken by the respondents after getting a reply to the show cause notice and the personal hearing should be conveyed to the applicants by a speaking order meeting all the objections that might be raised in the reply of the applicants to the notice as well as during the hearing.

6. With this direction all the three O.As are disposed of with no order as to costs.



Sd/-
(USHA SEN)
ADM. MEMBER

V.S.

प्रमाणित सही प्रतिलिपि

अनुभाग अधिकारी (न्यायिक)
केन्द्रीय प्रशासनिक अधिकरण
जोधर

Recd. Copy of
Judgment.

28/9/20

Recd

28/9/20

Part II and III destroyed
in my presence on 2/1/2001
under the supervision of
section officer () as per
order dated 4/9/2000...

Section officer (Record)